

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, MAY 3, 2000

SESSION OF 2000

184TH OF THE GENERAL ASSEMBLY

No. 22

**SENATE**

WEDNESDAY, May 3, 2000

The Senate met at 12 m., Eastern Daylight Saving Time.

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

**PRAYER**

The Chaplain, Reverend BRIAN COX, of St. John's Lutheran Church, Hatboro, offered the following prayer:

Let us pray.

Loving and gracious God, as we gather together this day we pray for Your spirit to work in and through this assembled body of leaders and lawmakers. Allow a sense of integrity and commitment to direct all that happens here this day. May we ever work for the common good of all Your children, not just in Pennsylvania but throughout the world, being true to our calling to be filled with compassion toward all.

Enable the decisions made this day to be touched by Your light, for these decisions have the power to dispel the darkness which surrounds the lives of the disadvantaged, the poor, the homeless, the lost, while also being able to encourage the already positive programs in place. So we pray You will allow these walls to be filled with the powerful statements of love, justice, and equity. May these men and women ever make the best, most-informed decisions they can, remembering how decisions which affect one directly can and do affect all indirectly. May there ever be a true understanding of what it means to be the Commonwealth of Pennsylvania, where all are treated with respect, mercy, and compassion. Unite us one with another in this responsibility entrusted to us, so we might ever witness to Your grace through our lives.

We pray all these things in Your name, our Lord and God. Amen.

The PRESIDENT. The Chair thanks Reverend Cox, who is the guest today of Senator Greenleaf.

**JOURNAL APPROVED**

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of May 2, 2000.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, and agreed to by

voice vote, further reading was dispensed with and the Journal was approved.

**HOUSE MESSAGES**

**HOUSE CONCURS IN SENATE BILL**

The Clerk of the House of Representatives returned to the Senate SB 544, with the information the House has passed the same without amendments.

**SENATE BILLS RETURNED WITH AMENDMENTS**

The Clerk of the House of Representatives returned to the Senate SB 849 and 1183, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XIV, section 5, these bills will be referred to the Committee on Rules and Executive Nominations.

**BILL SIGNED**

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the presence of the Senate signed the following bill:

SB 544.

**LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I request legislative leaves for today's Session on behalf of Senator Helfrick and Senator Holl.

The PRESIDENT. Senator Loeper requests legislative leaves for Senator Helfrick and Senator Holl. Without objection, those leaves are granted.

**LEAVES OF ABSENCE**

Senator BODACK asked and obtained leaves of absence for Senator BELAN, Senator MUSTO, Senator MELLOW, and Senator STAPLETON, for today's Session, for personal reasons.

**CALENDAR**

**SENATE RESOLUTION No. 163,  
CALLED UP, ADOPTED**

Senator LOEPER, without objection, called up out of order from page 13 of the Calendar, as a Special Order of Business,

**Senate Resolution No. 163, entitled:**

A Resolution proclaiming the week of May 1 through 7, 2000, as "Days of Remembrance of the Holocaust" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

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

**YEA-46**

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earll	LaValle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

**NAY-0**

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

**SPECIAL ORDER OF BUSINESS  
GUEST OF SENATOR CHARLES W. DENT  
PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Mr. President, it is indeed my honor, privilege, and pleasure today to introduce my intern from Muhlenberg College, Eileen Roach, and I ask the Senate to give her a warm welcome.

The PRESIDENT. Would our special guest please rise so the Senate may welcome you.

(Applause.)

**CONSIDERATION OF CALENDAR RESUMED**

**SENATE RESOLUTION No. 164,  
CALLED UP, ADOPTED**

Senator LOEPER, without objection, called up out of order from page 13 of the Calendar, as a Special Order of Business, **Senate Resolution No. 164**, entitled:

A Resolution proclaiming May 10, 2000, as "Israel Independence Day" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Salvatore.

Senator SALVATORE. Mr. President, it has been my privilege for many years here to introduce both the resolution that we are considering and the previous resolution we just adopted.

I want to speak a little bit on the previous resolution because it is such an important one. It is one that we should never forget, about the 6 million people who were slaughtered during the years of 1943 to 1945, and the millions who survived. It was the worst genocide recorded in history. In fact, we have 1,800 of those survivors right now in Pennsylvania, and I hope that we never forget what happened during those years.

It seems like things are happening again. We had the hate crime in Pittsburgh last week, and we have other hate crimes, when people should be enjoying their freedoms, the right to worship, the right to live in freedom. And I hope that the veterans and the people who were around during World War II have impressed on their children and their grandchildren, and we should impress on our children how important it is to never forget the Holocaust, because we have to preserve that memory forever and say never again, because we cannot let this happen again.

I am proud that for years I have been offering that resolution, and also the resolution that we are now considering, proclaiming May 10 as Israel Independence Day, and I would just hope, in closing, that each and every one of us would take it upon ourselves to make sure that people start to respect other people. If we do not do that, we are going to be destroyed as a society.

Thank you, Mr. President.

The PRESIDENT. The Chair thanks Senator Salvatore for those reflections.

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

A voice vote having been taken, the question was determined in the affirmative.

**SENATE RESOLUTION No. 161,  
CALLED UP, ADOPTED**

Senator LOEPER, without objection, called up out of order from page 13 of the Calendar, as a Special Order of Business, **Senate Resolution No. 161**, entitled:

A Resolution urging the citizens of this Commonwealth to join in the celebration of June 3, 2000, as "Kids' Day" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

**BILL ON CONCURRENCE IN  
HOUSE AMENDMENTS**

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 380 (Pr. No. 1895)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for guardians ad litem in juvenile matters; further providing for counsel in juvenile matters, for adjudications in certain juvenile matters and for the registration of sexual offenders; and making a repeal.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 380?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 380.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I rise to urge concurrence in the House amendments adopting this legislation that has been commonly referred to as Megan's Law. If you remember, a number of years ago a young child by the name of Megan Kanka was playing in a neighbor's home. Unknown, obviously, to her and certainly to her parents, this individual was a compulsive violent sexual predator, and her parents had no notice of it. The individual was at liberty, living next to them, and the child was allowed to play in their yard and ultimately went into the house and was assaulted and murdered by this individual who had a record of sexual assaults, and a child's life was lost.

This legislation is called Megan's Law, and it would establish that never again, or certainly never in Pennsylvania, that a parent and the community would not be aware of the fact that they had in their presence a violent sexual offender, and never again would a child be allowed to play in that individual's yard or have contact with that individual without certainly being notified of the fact that they were a violent sexual predator.

So Senate Bill No. 380 amends Megan's Law to comply with the Federal requirements and with the State Supreme Court decision. In addition to public safety concerns, it is important that the Senate vote for this bill now because Pennsylvania is out of compliance with Federal requirements by not having community notification provisions in effect. This measure restores protections to potential victims of sexual assault across the Commonwealth, especially to children and to women, and provides for neighbor awareness of the presence of a sexual predator in the vicinity. In order to comply with Federal law, a new registration requirement has been added, and for those offenders convicted of a sex crime and for offenders convicted of multiple offenses, Senate Bill No. 380 requires lifetime registration. In addition, this measure clarifies the listed offenses that require a 10-year registration period.

Furthermore, Senate Bill No. 380 ensures applicability of the law to out-of-State offenders who move into Pennsylvania. Additionally, and believe it or not, when we were dealing with this legislation we had calls from people who were pedophiles, calling to see whether Pennsylvania had such a law and whether it applied to them. Well, we will put them on notice now that we

do have a law and it does apply to them if they move into Pennsylvania.

Additionally, this revised version requires that offenders appear in person to register at a State Police station to re-verify addresses at scheduled intervals and to have ID photos taken.

Most critically, for the sake of constitutionality, this measure places the burden of proof on the Commonwealth to prove by clear and convincing evidence that an eligible offender is a violent sexual predator, thus triggering community notification. The shifting of the burden of proof should answer the questions of those concerned about the civil liberties of convicted sex offenders. No one can deny, however, the fact that sexual offenders have high rates of recidivism. The public deserves whatever protection this legislature can provide against victimization by repeat offenders. If such criminals are to be released, they should not be released on an unsuspecting public. What happened in Megan Kanka's neighborhood, to an innocent child and an unsuspecting family, should never happen again.

I urge a vote to concur in the House amendments to this bill. Its revisions should satisfy concerns about the burden of proof, while arming law-abiding citizens with knowledge that may save them or a loved one, while giving law enforcement a tool to better investigate and prosecute crimes of sexual predators.

Thank you.

And the question recurring,

Will the Senate agree to the motion?

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

#### YEA-46

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earl	LaValle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

#### NAY-0

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

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

### THIRD CONSIDERATION CALENDAR

#### NONPREFERRED APPROPRIATION BILLS OVER IN ORDER

Senator LOEPER. Mr. President, I call up Senate Bill No. 1360 and ask for its consideration at this time.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I request that Senate Bills No. 1360, 1361, 1362 and 1363 go over in their order.

**SB 1360, SB 1361, SB 1362 and SB 1363** -- Without objection, the bills were passed over in their order at the request of Senator FUMO.

### RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I ask for a recess of the Senate, first for a Republican caucus to begin immediately in the Rules room at the rear of the Senate Chamber, with anticipation that it should be a relatively short caucus.

However, for the information of the Members, it is my anticipation that following that caucus the Members would have an opportunity to have lunch and get some other chores done, and that we probably would not reconvene before 3 o'clock this afternoon to continue with the business of the day.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo. Is it going to be a similar announcement?

Senator FUMO. Yes, Mr. President. Looking forward to a late evening, we, too, ask our Members to come to the rear of the Chamber for a quick caucus at this time.

The PRESIDENT. For purposes of Republican and Democratic caucuses, to begin immediately following this announcement, with the intention of returning at approximately at 3 p.m., the Senate stands in recess.

### AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

### EXECUTIVE NOMINATIONS

#### EXECUTIVE SESSION

Motion was made by Senator SALVATORE,

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

Which was agreed to by voice vote.

#### NOMINATIONS TAKEN FROM TABLE

Senator SALVATORE. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE STATE  
ATHLETIC COMMISSION

January 13, 2000

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Charles P. Bednarik, 6379 Wind-ing Road, Coopersburg 18036, Lehigh County, Sixteenth Senatorial District, for reappointment as a member of the State Athletic Commission, to serve for a term of four years and until his successor is appointed and qualified.

THOMAS J. RIDGE  
Governor

MEMBER OF THE STATE  
ATHLETIC COMMISSION

January 13, 2000

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Andrew A. DePaolo, 107 Evandale Drive, Pittsburgh 15220, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Athletic Commission, to serve for a term of four years and until his successor is appointed and qualified.

THOMAS J. RIDGE  
Governor

MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD

March 23, 2000

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Stuart Levin, 151 Conestoga Road, Malvern 19355, Chester County, Nineteenth Senatorial District, for reappointment as a member of the Children's Trust Fund Board, to serve for a term of three years and until his successor is appointed and qualified.

THOMAS J. RIDGE  
Governor

MEMBER OF THE STATE TRANSPORTATION  
COMMISSION

March 6, 2000

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert B. Paese, 326 Dewey Street, Pittsburgh 15218, Allegheny County, Thirty-eighth Senatorial District, for reappointment as a member of the State Transportation Commission, to serve for a term of six years and until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE  
Governor

MEMBER OF THE WORKERS' COMPENSATION  
APPEAL BOARD

March 6, 2000

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Delores Wilson, 1901 J.F.K. Boulevard, Apartment 1519, Philadelphia 19103, Philadelphia County, First Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2003, and until her successor is appointed and qualified, add to complement.

THOMAS J. RIDGE  
Governor

On the question,  
Will the Senate advise and consent to the nominations?

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

## YEA-46

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earil	La Valle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

## NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.  
Ordered, That the Governor be informed accordingly.

## LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Robbins and Senator Tilghman have been called from the floor, and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Without objection, those leaves are granted.

**NOMINATION TAKEN FROM THE TABLE**

Senator SALVATORE. Mr. President, I call from the table the nomination of Robert K. Bloom for the Pennsylvania Public Utility Commission and ask for its consideration.

The Clerk read the nomination as follows:

MEMBER OF THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

March 10, 2000

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert K. Bloom, 435 Wood Crest Drive, Mechanicsburg 17055, Cumberland County, Thirty-first Senatorial District, for reappointment as a member of the Pennsylvania Public Utility Commission, to serve until April 1, 2005 or until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE  
Governor

On the question,  
Will the Senate advise and consent to the nomination?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, the nomination before us today is that of Robert K. Bloom for confirmation as a member of the Pennsylvania Public Utility Commission. Mr. President, it is my view that Vice Chairman Bloom has served with distinction on that commission for a number of years, not only for the past term but also in a previous term, and I believe his involvement in State government, his involvement on the Public Utility Commission, and the integrity that he has shown on that commission and his concern to understand the issues has been a benefit, particularly to consumers throughout Pennsylvania.

Commissioner Bloom has certainly been a champion of deregulation in an era where the commission has seen deregulation of particularly the electric industry, the gas industry, and currently the telephone industry, and I think that Vice Chairman Bloom has been an integral part of the commission's decisions and very supportive as far as issues and decisions to make competitiveness for Pennsylvania consumers a reality.

Mr. President, it is my view that we should support the nomination of Robert K. Bloom, and I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I rise somewhat hesitantly because I am asking for a "no" vote on the confirmation. Normally I believe the Governor should be given at least the benefit of the doubt for whomever he nominates for whatever position, but I think there is a distinction to be drawn here. And I do think, as the previous speaker said, that the Commissioner has handled himself, especially during his first tenure, with distinction, and I have no reason to believe that he has not acted in a professional way, but we are in a totally different era of utility regulation, competition, and deregulation. And if for no other reason than the reason stated in the editorial in the Harrisburg Patriot-News recently about how the Commissioner is clearly at home in that old school of regulation, whether or not he served with distinction, and I have no reason to disagree with

Senator Loeper, but that era is long gone, and we need someone who is knowledgeable about the new technology and someone who is committed to competition.

There have been some votes where this Commissioner has been in the minority on competition, and when we talk about competition, or rather, the lack of competition, we are talking about abandoning much of rural Pennsylvania, because without adequate competition much of rural Pennsylvania is at the mercy of their geography. They cannot get the services that everyone else might be able to achieve. They are, in essence, a captive audience, and we need an activist PUC that is going to understand this new era to make sure that a large percentage of Pennsylvanians are not left behind.

I also feel that we need some consumer balance on the PUC. I have had the chance in committee to discuss consumer protections, especially for the poorest ratepayers, with the Commissioner, especially programs like the Lifeline Program, and once again he stood out as the only PUC Commissioner who opposed expanding that to help the poorest ratepayers in the State. I think that we need to have, again, more balance in terms of who will speak for those individuals. I am not asking for much. I am asking for basic knowledge of what is happening in this new era, and I am asking for fairness, and I am sorry to say that I do not think that is there right now.

I listened for about an hour and a half at the hearing last week about some issues of which I had no knowledge. They were raised by our colleague, Senator Fumo, on the issue of the appearance of impropriety and some other factors, and of some ethical considerations. We do not have the opportunity in this Chamber or within the committee process to get to the truth of all that, and I do not want to dwell on that.

I would, however, like to enter into the record a response to a set of interrogatories dated February 8, 2000, regarding the Structural Separations Case. The docket number is on here. It has to do with certain conversations with Ron Lench, and I ask to submit this for the record. I do not intend to get into the details of that.

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

The PRESIDENT pro tempore. Without objection, that would be appropriate, and it will be submitted for the record.

*(The following document was submitted for the record at the request of Senator KUKOVICH.)*

RESPONSE OF MCI WORLDCOM TO FIRST SET OF SENATORS' INTERROGATORIES DATED FEBRUARY 8, 2000, Structural Separations Case, Docket Nos. P-00991648 & P-00991649, Interrogatory No. 1

**ANSWERED AND AVERRED BY: Ron Lench, President, Lench & Crisci**

1. Prior to January 30, 2000, did any PUC Commissioner, any staff member of a Commissioner or any employee of the PUC (other than Chairman Quain or a person employed by the Office of Trial Staff) call or contact you or any of your company's employees,

representatives or agents (including, but not limited to contract lobbyists) seeking your company's support for any proposal creating a separate DSL affiliate for Bell Atlantic, including, but not limited to the Joint Petition for Settlement of Court Proceedings Arising from the Global Order, or any earlier version or draft?

If so, please:

- (a) identify the person(s) who received the call or initiated the contact;
- (b) identify the PUC Commissioner or staff member who made the call or initiate(*sic*) the contact(s);
- (c) describe the nature, purpose, date and time of the contact(s);
- (d) provide a narrative description of what was said, including, but not limited to, an indication as to whether or not there was a direct or indirect reference to any other Commission proceeding, action or determination or potential Commission proceeding, action or determination which may involve your company;
- (e) please indicate if the PUC Commissioner or staff member who made the call or initiated the contact indicated their support for the Joint Petition for Settlement of Court Proceedings Arising from the Global Order, or any earlier version or draft; and,
- (f) please describe any portion of the contact or conversation that involved the structural separation of Bell Atlantic's wholesale and retail divisions and the proposed DSL affiliate.

RESPONSE: Yes.

- (a) Ron Lench received the call. Ron Lench is President at Lench & Crisci located in Harrisburg, Pennsylvania. Mr. Lench is a contract lobbyist for MCI WorldCom.
- (b) PUC Vice Chairman Bloom made the call and initiated the contact.
- (c) The date and time of the call was the afternoon of January 12, 2000. The nature and purpose of the call are described in the response to 1(d).
- (d) Vice Chairman Bloom asked Mr. Lench if MCI WorldCom could support the settlement of global litigation. Mr. Lench stated that he had not recently been involved with the global negotiations. Mr. Lench asked Vice Chairman Bloom which other parties were on board with the settlement. Vice Chairman Bloom stated that Sprint was on board, and that AT&T would never agree to the settlement. Vice Chairman Bloom stated something similar to, "you know you have the merger out there." Mr. Lench called Vice Chairman Bloom later that day and told him that, unless certain key points could be worked out in the settlement proposal, MCI WorldCom could not agree to the proposal.
- (e) Vice Chairman Bloom did not indicate whether he or the Commission supports the Joint Petition for Settlement of Court Proceedings Arising from the Global Order.
- (f) No portion of the conversation involved the structural separation of Bell Atlantic's wholesale and retail divisions or the proposed DSL affiliate.

Senator KUKOVICH. I also listened intently regarding the allegations of the appearance of impropriety, and I certainly am in no position to judge that, and quite frankly as I looked over the record and the transcript, the Commissioner engaged in activity which I think probably almost everybody in this room has engaged in at one time or another. The distinction is that part of our job is to be advocates and to take positions and to listen to lobbyists and listen to everybody. The PUC is very different. They sit in a quasi-judicial position, not a legislative position. And, again, I am not willing to make any accusations or allegations.

I would like to offer into the record the Principles for Settlement of Global Order Litigation that was arrived at by some of the parties, and the signatures of the Commissioners who signed off on that litigation. There are some questions about the sunshine nature of that. I would like to put that into the record also.

The PRESIDENT pro tempore. Without objection, that will be submitted into the record.

*(The following document was submitted for the record at the request of Senator KUKOVICH:)*

### Principles for Settlement of Global Order Litigation

#### Section 271 Approval Process

- provide that BA-PA may file its Section 271 application upon successful completion of KPMG report re test of BA-PA OSS
- provide that BA-PA must still successfully complete the commercial testing provided for in previous Commission orders and meet the 14-point check list to obtain favorable PUC consultative report to FCC
- provide that all parties reserve their rights before the PUC and FCC re § 271

#### Protective Language re Chapter 30

- provide that BA-PA's agreement to abide by terms of Global Order are not precedential re use of PCO funds, extension of rate freeze and revenue neutral rate changes

#### Access Charges

- provide that access charge rates will be reduced to .75 cents/MOU at § 271 approval or no later than one year from date of final entry or original Global Order
- access charge reduction to be funded via increase to CC flat rate pool
- all access charge reductions shall be flowed through to PA customers

#### Universal Service Fund

- BA-PA will support and contribute to USF per Global Order
- provide that BA-PA's contribution will be funded via the unexpended and unaccounted for 1999 and 2000 PCOs and shareholder funds
- provide that Sprint/United will fund its own USF obligations

#### Lifeline Rates

- BA-PA will maintain the \$9.00 Lifeline Program for customers under 100% of the poverty level as set forth in the Global Order.
- All LECs will offer the \$5.25 federally funded benefit to all local exchange customers who are either below 150% of the poverty level or enrolled in one of the specified public assistance programs, to the extent consistent with the current federal regulations.
- All vertical service restrictions on the \$5.25 federally funded Lifeline program will be eliminated.
- BA-PA will contribute \$250,000 per year for a period of two years to be used to develop an administratively efficient automatic enrollment program for customers eligible for the \$5.25 federally funded benefit. BA-PA will make this program available (software, protocol, etc.) to other LECs. Customers who qualify for the \$9.00 program may opt in to that program upon enrollment or at a later time with the understanding that the \$9.00 service retains existing vertical service restrictions.
- To qualify for entry into Lifeline and LinkUp, customers with

arrears must first use UTAP, if available, to satisfy the arrears and must agree and adhere to a payment plan to pay off any remaining arrears.

- Should the customer breach the payment plan for vertical services, the LEC may terminate the customer's vertical services. Should the customer breach the payment plan for basic services, the LEC may terminate the customer's Lifeline or LinkUp eligibility.
- The FCC recommendation of self-declaration of participation in the enumerated public assistance programs shall be adopted. Additionally, all other customers who are below 150% of poverty level, may demonstrate annual income by presenting pay stubs or other reasonable documentation. Enrollment will be portable among LECs from one \$5.25 program to another.
- An outreach program shall be established as part of the Consumer Education plan in the Global Order.

#### Quality of Service

- BA-PA shall commit to maintaining its present quality of service to customers and shall remain subject to the service quality standards of Chapter 63

#### Rural Discounts

- Provide that rural density cell loop rates in DC-4 will be reduced by an additional \$.75/mo. for 2 years
- Provide that the Rural/Residential Resale Promotion will be extended by an additional year, for a total of 2 years

#### Reciprocal Compensation

- The Global Order shall be clarified such that BA-PA may negotiate alternative compensation arrangements with ISPs
- On or after January 1, 2001, upon petition of any party to this settlement, the Commission may initiate a generic investigation to determine whether the contracts and arrangements governing ISP-bound traffic are just and reasonable

#### Consumer Education

- Within thirty days following the execution of the settlement agreement, BA-PA will contribute an additional one-time payment of \$1 million to the Consumer Education Fund provided for in the Global Order.

#### Performance Measures

- There shall be an incremental increase in the liquidated damages portion of the incentive plan contained in the November 4, 1999 motion of Chairman Quain in accordance with the mitigated structural separation plan agreed to by the parties, as follows: for violations persisting beyond 30 days but prior to 60 days, liquidated damages in the amount of \$3,000 per metric violated, per affected CLEC shall be paid; for violations persisting beyond 60 days but prior to 90 days, liquidated damages in the amount of \$5,000 per metric violated, per affected CLEC shall be paid. All other provisions contained in the Performance Measures motion shall remain the same.

#### Structural Separation

- provide for creation of separate retail affiliate to offer both high speed services (such as xDSL, ATM switching, frame relay, etc.) and circuit switched services
- retail affiliate will utilize BA-PA's OSS for all pre-ordering, ordering, provisioning and billing of network elements and resold services from BA-PA in the same manner as all other CLECs.

- retail affiliate will provide service via resale, UNE, UNE-P and EEL methods and, at its option, self-owned facilities. The retail affiliate will be a viable enterprise in terms of staffing, operations and capital funding.
- retail affiliate will be regulated to same extent as any other CLEC
- creation of Code of Conduct governing BA-PA relations with its retail affiliate
- Code of Conduct to include rules re no discriminatory treatment in provision of goods, services, facilities and information, no "anti-choice" marketing, no false or misleading advertising, and for one year after BA-PA files its Section 271 application for consultative report with the PUC, no BA-PA advertising of residential services; a neutral Miranda-type warning shall be given for all service inquiries by new customers; however, BA-PA would be permitted to offer generic advertising re availability of new services (from itself and other local telephone companies) and goodwill advertising.
- BA-PA will be subject to the following additional advertising limitations: (a) direct mailings to customers advertising the benefits of staying with BA-PA are prohibited unless all other CLECs are provided access to the customer mailing lists for a reasonable fee; and (b) no joint advertising of BA-PA services with the services of its retail affiliate except to the extent permitted by TA-96
- § 272 standards shall apply as between BA-PA and its retail affiliate.

#### Appeals

- All appeals of the Global Order in state and federal courts shall be withdrawn
- MCI to withdraw its federal court challenge of MFS III rates

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COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

January 10, 2000

Privileged and Confidential

Re: Global Order Litigation; Docket Nos. P-00991648 and P-00991649

TO ALL PARTIES:

In accordance with the Pre-settlement Agreement in this matter, Chairman Quain has consulted us regarding the Principles for Settlement of Global Order Litigation dated January 7, 2000 and distributed to the parties. Upon review of that document, we believe that its provisions represent a reasonable framework for settlement of the litigation and for bringing local competition to Pennsylvania, subject to our formal review of a complete settlement document and any public comments thereto. However, as noted in the Pre-settlement Agreement, Commissioner Fitzpatrick will not be participating in this matter.

JOHN M. QUAIN, Chairman  
ROBERT K. BLOOM, Vice Chairman  
NORA MEAD BROWNELL, Commissioner  
AARON WILSON, JR., Commissioner

Senator KUKOVICH. It is probably true that, all of these issues aside, a vast majority of our constituents are not going to be too concerned about this vote. People do not get concerned about utility issues until maybe there is a rate increase or until

they do not get a service they want, but I would suggest that many times on this floor we talk about taxes and the impact of taxes on our constituents. It is like a mantra that is repeated over and over about how we do not want to take tax money from our constituents. I would submit if you took a typical family in this Commonwealth and looked at their State income tax burden and their sales tax burden, it would pale in significance to the money that comes out of our constituents' pockets, the same family, for their telephone bill, their electric bill, their heating bill, their gas bill, et cetera. What I am suggesting is that we have an obligation, in the interest of fairness, to all of our constituents who will be impacted upon more greatly potentially by this vote than any vote we would cast on taxes, State taxes, in this Commonwealth. And we have an obligation to those individuals, especially in rural Pennsylvania, who may not be able to have the services available to them in the future, in the foreseeable future, in the distant future, unless we have a PUC that is balanced and visionary and understanding of the new technologies we will all be facing.

I do not ask for a "no" vote lightly, but I do think it is imperative that we ask the Governor to look for another nominee to the commission to be concerned about the future of regulatory reform and competition in this Commonwealth, and the only way to do that is to vote "no" on this nomination and start over again.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Mr. President, I rise to support this nomination and to urge my colleagues to cast an affirmative vote in favor of Mr. Bloom to be confirmed as a member of the Pennsylvania Public Utility Commission.

The gentleman from Westmoreland raised an issue contained in a Patriot-News editorial of May 1, 2000, and I read that same editorial and I read the same language that he referred to indicating that Mr. Bloom clearly is at home in that old school of regulation. I am not exactly sure what that old school of regulation is. There is a lot to be said for some old and traditional ways, and I am not going to say that that is something that we would condemn Mr. Bloom for. But at the hearing I questioned Mr. Bloom about his general views on deregulation of public utilities, and I do not know whether it is old school or new school, but in my estimation, Mr. Bloom demonstrated a very articulate and very astute opinion and viewpoint not just on the general area of deregulation but on the distinctions between certain kinds of deregulation.

At the risk of boring my colleagues, I would like to just point out something to them that he pointed out to me, and for which he is getting some criticism. Mr. Bloom is accused of not supporting deregulation. Well, the fact of the matter is, he has a 99-percent voting record in favor of deregulation. Most people point to the vote on the Bell Atlantic case as an example of his record in the so-called old school. However, Mr. Bloom will point out to you, if you ask him about this, that there is a distinction between deregulating the electric industry and deregulating the gas industry and deregulating the telecommunications industry. There is a big difference. And if you stop and think



about it, you will get it. In electric deregulation, the product that we are deregulating is that electron that flows through the wires. The wires, the transmission lines, those are still regulated monopolies, and I guess that old school is something we need to continue to look at in terms of deregulation, because there still is regulation, old school, if you will, of the lines and the transmission lines.

In the area of gas deregulation, the commodity that is being deregulated is that molecule of gas that flows through the pipelines. The pipelines, however, are still going to be regulated. They are regulated monopolies. Old school or new school, they still have to be regulated. In telecommunications it is a tougher nut to crack, because what is being deregulated and the commodity that you have in that industry is the infrastructure of the telephone company, the switches and the wires and all of that stuff that goes into allowing us to communicate from one point to another. There is not the commodity of an electrode, there is not the commodity of a molecule. And Mr. Bloom understands this, and in my discussions with him he pointed this out and pointed it out to the Members of the committee.

Now, I think he is being unfairly tagged with being an opponent of deregulation because of that one vote in the Bell Atlantic case. As he indicated to us in committee and as he indicated in his dissenting opinion in that case, he agreed with that case almost in its entirety but took two major exceptions to the case. One was in the area of the Lifeline service that was being provided under that case, and he felt that we were adding too much elaborate and exorbitant service to the very basic Lifeline service that was intended under the original Lifeline proposal, although he supports the concept and very vigorously supports the Lifeline program.

His second major area of disagreement, and probably the most significant in that particular case, was his belief that the PUC did not have the authority to break up Bell Atlantic into several companies, that it was just not authorized either by State, Federal, or common law, and he is entitled to that opinion. I think there is a very good argument for that opinion. I do not know who is right and who is wrong. The case has been appealed to our appellate courts, and that issue will be ultimately decided by the courts of this Commonwealth. But because he chose to dissent on those two issues, I think he is being unfairly labeled as being at home in what is called an old school of regulation.

On the issue of impropriety, and I will not take very long on this, you have probably read in the newspaper about the incident involving the lobbyist for MCI. Quite frankly, Mr. President, this is a tempest in a teapot. If you examine the record, you will see that after the Bell case was decided by the PUC, there was no matter pending before the PUC, and the Chairman of the PUC, as is his wont and his procedure, decided that instead of having that case litigated forever, which may happen anyway, he should make an attempt to try to settle that case by having all the parties come together and engage in settlement discussions. And what he does when he engages in that process, and he has done that in a couple of other instances, a couple of other cases, he will create a document called a pre-settlement conference agreement under which the parties agree when they sign on to

it to waive the ex parte limitations that are presently used and presently applied to PUC members. And in fact, they explicitly agree in this agreement to allow members of the commission, the chairman and other members of the commission, at his direction, to try to get the various parties to sign on to the agreement and to become parties to the discussion for settlement.

That is what was happening in this case. At the direction of the chairman, Mr. Bloom was attempting to get MCI to sign on to the pre-settlement conference agreement in order to try to get the parties together to settle. Nothing nefarious at all. A procedural matter in which the commission clearly is entitled to engage and attempt to settle these matters and save these companies the great expense and actually the ratepayers the great expense of all this litigation.

Those allegations of so-called impropriety were brought to the attention of the chairman of the Public Utility Commission and to Mr. Bloom in early April, and Mr. Bloom requested from the chief counsel of the commission an opinion as to whether or not his actions, as they took place, were in accordance with the proper rules, regulations, and ethics that apply to a member of the Public Utility Commission. I am not going to get into the details—it is a rather long, seven-page opinion—but according to the chief counsel of the Pennsylvania Public Utility Commission, on the subject of so-called ex parte communications revolving around the global order settlement talks, Mr. Bloom was totally exonerated in the opinion of the chief counsel of the Public Utility Commission, and, Mr. President, I would like to submit for the record the opinion of the chief counsel for the Senate's consideration.

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

*(The following document was submitted for the record at the request of Senator PICCOLA:)*

**CONFIDENTIAL ATTORNEY WORK PRODUCT**

April 10, 2000

**SUBJECT:** Allegations of Ex Parte Communications and Other Improprieties Regarding Global Order Settlement Talks

**TO:** Vice Chairman Bloom

**FROM:** Bohdan R. Pankiw  
Chief Counsel

At your request, this Law Bureau memo examines the recent allegations of ex parte communications and other improprieties regarding your participation in the Global Order settlement conference, and provides an opinion as to whether any of the allegations have merit.

**SUMMARY OF FACTS**

On November 24, 1999, Chairman Quain invited all parties in the recently concluded Global Order proceeding<sup>1</sup> to participate in a settlement conference in an effort to resolve the many appeals and other litigation arising from that order. All parties agreed to participate in this settlement conference and subsequently signed, on or about De-

ember 6, 1999, a Pre-Settlement Conference Agreement (PSA) governing the conduct of the settlement conference.

In addition to providing for the confidentiality of these settlement discussion [*sic*], the PSA provided that the parties would waive "any objections, including but not limited to objections to ex parte communications and lack of impartiality, arising from the participation of Chairman John M. Quain in this settlement conference, in consultation with Vice Chairman Bloom and other Commissioners as deemed appropriate by Chairman Quain." PSA at 3<sup>2</sup>. The PSA further provided that "[w]hether or not the settlement conference is successful, the participants are waiving any objections to Chairman Quain or any consulted Commissioner voting on compliance filing issues or implementation issues, or any subsequent petition arising from a settlement conference and, if that settlement conference is not successful, on any remand or other further action directed or authorized by the courts." PSA at 3-4.

After several weeks of intensive settlement negotiations, Bell Atlantic, the consumer representatives and several CLECs agreed to a set of Principles For Settlement of Global Order Litigation (Principles for Settlement) dated January 7, 2000, subject to the further task of drafting a comprehensive and mutually agreed upon settlement document for consideration by the Commission. At that time, Chairman Quain also asked the consulted Commissioners (including Vice Chairman Bloom) to call their industry contacts in order to urge parties to accept the Principles for Settlement as a reasonable compromise of positions and come in good faith to the drafting table.

On January 12, 2000, Vice Chairman Bloom called Ron Lench, a lobbyist whom he had know [*sic*] for over 20 years, and asked him if MCI could support the Principles for Settlement. Mr. Lench stated that he was not currently working on the Global Order matter (his partner was), but he would get back to Vice Chairman Bloom later with a response. According to an MCI interrogatory response<sup>3</sup> dated February 14, 2000, "Vice Chairman Bloom stated [to Mr. Lench] something similar to, 'you know you have the merger out there.'" However, according to the [*sic*] Vice Chairman Bloom, Vice Chairman Bloom reminded Mr. Lench that he had asked Vice Chairman Bloom for procedural help in advancing the staff processing of a prior MCI merger application<sup>4</sup>, and that Vice Chairman Bloom was now asking for help from Mr. Lench regarding the proposed settlement. Later that same day, Mr. Lench called Vice Chairman Bloom back and reported that MCI could not support the Principles for Settlement unless certain key points could be worked out.

On January 18, 2000, Bell Atlantic, GTE North, Sprint/United, the consumer representatives and several CLECs signed a Joint Petition For Settlement of Global Order Litigation (Joint Petition) and filed it with the Commission.<sup>5</sup> On January 24, 2000, the Commission filed an application with Commonwealth Court to return jurisdiction of the matter to the Commission so that the Joint Petition could be considered. The application was denied by the court on February 2, 2000, and no further action has been taken by the Commission on the Joint Petition.

Allegations have now been made by AT&T Communications of Pennsylvania, Inc. and others that some of these actions amount to ex parte communications, prejudgment and other improprieties under law. See AT&T Answer to PUC Application for Review Under Pa.R.A.P. 3315, filed March 2, 2000.

## DISCUSSION

### Ex Parte Communications

Section 334(c) of the Public Utility Code defines ex parte communications as "any off-the-record communications to or by any member of

the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before that commission in any contested on-the-record proceeding." 66 Pa. C.S. 334(c). According to the [*sic*] PUC Procedures Manual, a matter becomes "contested" when the first adverse pleading is filed. PUC Procedures Manual, Section 403 A. (matter becomes contested only when complaint, protest, petition in opposition or other adverse pleading is filed by another party).

The prohibition against ex parte communications is based on the due process principle that no party should have the ability to unilaterally influence the decision maker regarding a contested issue of fact or law. At the same time, however, Section 334(c) makes clear that the ex parte prohibition only applies to matters that are pending before the Commission and that are contested. Therefore, before any inquiry is made as to the nature of an alleged ex parte communication, the analysis must begin with a threshold determination as to whether the ex parte prohibition was applicable in the first instance.

In regard to the Global Order proceeding, the record for that proceeding demonstrates that it was closed by main order entered September 30, 1999 and subsequent clarification order entered November 5, 1999. Vice Chairman Bloom's call to Mr. Lench was made on January 12, 2000, well after these Global Order dates and, therefore, the proceeding was no longer pending before the Commission and does not constitute an ex parte communication on this matter. As to the subsequent separate subsidiary proceeding called for in ordering paragraph 15 of the Global Order, that proceeding had not been instituted as of January 12, 2000 (due primarily to the pendency of settlement negotiations) and, therefore, the ex parte rules were not applicable as to this future proceeding either.

Finally, as to the MCIWorldcom/Sprint merger application<sup>6</sup> filed December 21, 1999, even if the conversation did address this pending application (which is contrary to Vice Chairman Bloom's account), because no complaint, protest or other adverse pleading had been filed regarding this merger application as of January 12, 2000, the matter was not yet a contested on-the-record proceeding within the definition of "ex parte communications" in the statute. According to the record in the MCIWorldcom/Sprint merger application, the first pleading in that proceeding (a notice of intervention) was not filed until January 28, 2000; the first adverse pleading was filed by OCA on January 31, 2000.

### Lack of Impartiality

Both the Code of Ethics for Commissioners at Section 319 of the Public Utility Code and basic principles of due process require that Commissioners decide the matters before them with impartiality. 66 Pa. C.S. 319(a)(2)(each Commissioner obligated to perform all duties impartially and diligently); In re Murcheson, 439 U.S. 133 (1955) (a fair trial before a fair tribunal is basic requirement of due process). Impartiality requires the decision maker to decide each matter on its own facts and merits. However, lack of impartiality or bias is not proven simply by reference to rulings in favor of one party as opposed to another in prior cases. Barkan v. U.S., 362 F.2d 158 (7th Cir. 1966); Martin v. U.S., 285 F.2d 150 (10th Cir. 1960). Rather, lack of impartiality or bias adequate to support a recusal request exists only if the decision maker's mind is "irrevocably closed" on the particular facts or issues being decided in the matter before the agency or court. FTC v. Cement Institute, 333 U.S. 683 (1948); U.S. v. Grinnell Corp., 384 U.S. 563 (1966).

As to the Global Order proceeding, there is no evidence that Vice Chairman Bloom's mind is "irrevocably closed" in regard to the voting in favor of or against the Joint Petition or in any other subsequent proceeding relating to the introduction of local telephone competition.<sup>7</sup>

The Principles for Settlement dated January 7, 2000 represented a framework for resolution of the issues on appeal, subject to further work by the parties to develop a complete settlement document and subject to subsequent formal review of the complete settlement document by the Commission after notice and opportunity to be heard. There is no evidence that Vice Chairman Bloom or any other Commissioner had made a final determination as to whether that particular set of terms would be approved (since it would be subject to the Commission's consideration of a complete settlement document and any public comments thereto), nor any evidence that other solutions (or modified terms) would not fall within the range of possible solutions that Vice Chairman Bloom or the other Commissioners would deem reasonable for settlement purposes.<sup>8</sup> In the absence of any public statement or conduct having the effect of "entrenching" a Commissioner in a publicly stated position, making it difficult for him or her to reach a different conclusion after consideration of the record, and there is no such public statement here, there is simply no case to be made on prejudice or the appearance of prejudice. Cinderella Finishing Schools, Inc. v. FTC, 138 U.S. App.D.C. 152, 425 F.2d 583 (D.C. Cir. 1970).

Moreover, it bears noting that the proposed Joint Petition filed on January 18, 2000 by Bell Atlantic, GTE North and Sprint/United calls for a modified form of structural separation, whereas the Vice Chairman dissented from the majority opinion in the September 30, 1999 Global Order as to any form of structural separation. This indicates Vice Chairman Bloom's willingness to consider other solutions to resolve the litigation, and belies any allegation that his mind is "irrevocably closed" on the matter.

#### Appearance of Impropriety

Section 319 of the Public Utility Code also provides that Commissioners should avoid the appearance of impropriety. 66 Pa. C.S. Section 319 (a)(1) (each Commissioner obligated to avoid impropriety and appearance of impropriety). This tends to be a subjective standard that depends upon the reasonable perception of others with regard to the challenged activity. For example, the commingling of prosecutory and advisory functions in a single individual has been ruled to constitute an appearance of impropriety, even in the absence of actual bias. Bruteyn v. State Dental Council & Examining Bd., 380 A.2d 497 (Pa. Cmwlth. 1977). Commingling of the decision to prosecute and the decision on the merits of the prosecution in a single individual or board has also been deemed an appearance of impropriety in the absence of actual bias. Lyness v. State Board of Medicine, 529 Pa. 535, 605 A.2d 1204 (1992).

Based on the allegations regarding Vice Chairman Bloom's actions in this case, there does not appear to [sic] any "appearance of impropriety." As noted above, the contact with Mr. Lench was not an ex parte communication because the Global Order proceeding was no longer pending before the Commission and the MCIWorldcom/Sprint merger had not yet been contested; nor is there any basis to support an allegation of bias or lack of impartiality based on Vice Chairman Bloom's conduct, statements or prior rulings. The contact to Mr. Lench was made at the request of Chairman Quain and represented a reasonable and ordinary effort within the context of the settlement conference to urge other parties to support the Principles for Settlement and come in good faith to the drafting table. Nothing in the PSA prohibited such contacts and, because no contested on-the-record proceeding was then pending, no ex parte rules were even implicated.

As to the statement alleged to have been heard by Mr. Lench, the most that can be said is that Mr. Lench heard "something similar to" a statement suggesting a reference to the pending MCIWorldcom/Sprint merger application. It appears from the interrogatory response filed by MCI that Mr. Lench was unsure as to the reference;

moreover, according to Vice Chairman Bloom, the reference was to a prior and then concluded MCI merger application in which Mr. Lench had called Bloom for procedural help regarding a prior merger application that had lingered at the staff level for some time. Mr. Lench asked for help from Bloom in getting the paperwork moving again. In the Law Bureau's opinion, calls of this nature to agency officials are not out of the ordinary, and they represent procedural inquiries and communications allowed by law. See PUC Procedures Manual, Section 403 B. (ex parte prohibitions do not apply to requests that are purely procedural).

#### Violations of the Crimes Code

Allegations regarding official oppression, 18 Pa. C.S. 5301, and obstructing the administration of law or other governmental functions, 18 Pa. C.S. 5101, have also been raised. These appear to be based upon the theory that Vice Chairman Bloom's statement to Mr. Lench referred to the pending MCIWorldcom/Sprint merger. While the statement relayed by Mr. Lench to MCI may have been interpreted by MCI officials as a reference to the pending merger, it appears that Mr. Lench was unsure as to the reference since Mr. Lench's recollection is that Bloom stated "something similar to 'you have that merger out there.'" (Emphasis added). According to Vice Chairman Bloom, his statement to Mr. Lench was actually a reference to the earlier MCI merger with Worldcom in which Mr. Lench had asked Vice Chairman Bloom for procedural help. Therefore, given (a) Mr. Lench's uncertainty as to what exactly was said or referred to by Vice Chairman Bloom, (b) Vice Chairman Bloom's account of the statement as referring to an earlier and now concluded matter, and (c) the high standard of proof in criminal cases, there clearly is no credible case to be made as to these crimes code allegations.

#### CONCLUSION

Based on the Law Bureau's analysis of the facts and law in regard to the Global Order settlement conference, it is the Law Bureau's opinion that Vice Chairman Bloom has not violated either the Commissioners' Code of Ethics at Section 319 or any of the cited provisions of the crimes code.

<sup>1</sup> Joint Petition of Nextlink, et al. and Joint Petition of Bell Atlantic, et al., Docket Nos. P-00991648 and P-00991649 (September 30, 1999).

<sup>2</sup> The PSA also noted that Commissioner Fitzpatrick would not be one of the consulted Commissioners due to his former law firm's work during the Global Order proceeding.

<sup>3</sup> Since the Commission had not yet initiated the structural separations proceeding called for in ordering paragraph 15 of the Global Order, MCI was under no obligation to respond to this interrogatory. See 52 Pa. Code Section 5.321 (a) and (c).

<sup>4</sup> The PUC staffs processing of this prior MCI merger application had not moved forward for some time (or was otherwise delayed), and Mr. Lench had asked for Vice Chairman Bloom's procedural help in getting the paperwork moving again.

<sup>5</sup> In accordance with the terms of the PSA, as subsequently extended, the settlement conference also terminated on January 18, 2000.

<sup>6</sup> Application of Sprint Communications, L.P., Docket Nos. A-310183 F0003, A-313200 F0006, and A-310356 F0002 (March 30, 2000).

<sup>7</sup> After a settlement petition is submitted for Commission approval, the Commission generally provides for notice and opportunity to be heard by affected parties and, thereafter, its procedural options are: approval, approval with modifications, or rejection.

<sup>8</sup> Unlike the facts in Senra v. Pa. State Bd. of Vehicle Manufacturers, 720 A.2d 857 (Pa.Cmwith. 1998), where the board rejected a proposed consent decree and stated unequivocally that revocation was "the appropriate resolution" of the matter, the Commissioners have made no statement indicating a final determination regarding the merits of the Joint Petition. Rather, the Commission proposed to seek public comments on the Joint Petition before rendering any final judgment on the matter. See Comment Order entered January 27, 2000.

The PRESIDENT. Without objection, that is now submitted and will be part of the record.

Senator PICCOLA. Mr. President, in conclusion, in echoing the words of the Majority Leader, Mr. Bloom has served the Public Utility Commission with distinction and with honor. He may have opinions on regulation and on public utilities that may differ somewhat from some of the other members of the commission, maybe some Members of the Senate, but that is not a reason to deny his confirmation, and in fact I think it is a healthy reason to confirm him, because a variety of opinion and a diversity of views on the Pennsylvania Public Utility Commission is a healthy thing. I urge his confirmation.

The PRESIDENT. The Chair recognizes the gentlewoman from Venango, Senator White.

Senator WHITE. Mr. President, since I believe I will be splitting from my party on this vote, I feel it is important that I explain the reasons why I will vote "no" on this particular nomination. I, of course, am a member of the committee that heard the confirmation hearing. I have been actively involved in matters involving telecommunications at the Public Utility Commission, and I recognize that this commission, in this era of deregulation, has assumed critical importance in the future of Pennsylvania, and, of course, from my perspective, particularly in the future of rural Pennsylvania, as we look hopefully toward telephone and communications deregulation.

When the commissioner candidate said that he thought the role of the PUC would be diminished in this era of deregulation, I had to completely disagree with him. I am certainly willing to give Commissioner Bloom the benefit of the doubt that his voting record does not necessarily reflect a bias toward Bell Atlantic, that he simply happens to agree with their philosophy, and that is his privilege. I do not demand that any PUC candidate or candidate for any other board or authority agree with me on every issue.

I do, however, believe that they should follow and be held to the high ethical standards that are required of the Public Utility Commission. Now, in saying this, I do not mean to imply--and this is something I want to put on the record--that I in any way believe Commissioner Bloom is corrupt. I do not believe any of the things he has been accused of, even if they are true, has resulted in any personal financial benefit to him or was done for that reason. I do, however, believe that he is somewhat cavalier in what is called the appearance of impropriety that appears in the ethical rules of the Public Utility Commission. What my colleague from Dauphin County has described as a "tempest in a teapot" may well be so, but the fact remains that Commissioner Bloom's explanations of this "tempest" have been inconsistent.

He has conceded, you know, the ex parte communications, I guess we can dispute, but he conceded in the hearing that he had done procedural favors for regulated utilities. The ethical standard for a PUC Commissioner is a high one. It is much higher than it is for a legislator, it is much more similar to that of a judge. When asked to define what he thought was the appearance of impropriety, Commissioner Bloom had no answer. Well, I know it is a toughie, but I have a pretty good answer, and I think that you are required to maintain a certain distance from the people you regulate, so as to forego the appearance that you are somehow showing favoritism to those persons when they appear before you. You are required to forego even the appearance that you are discussing with the parties outside of the forum the matters that you are being called upon to decide and adjudicate.

After the hearing, Commissioner Bloom sent a letter to the committee members changing certain details of his testimony. Now, again, I do not think he lied in his testimony. I think he simply did not take our questions seriously enough to be scrupulously accurate in his answers, and this related to whether his golfing fees had been paid, whether he went out and golfed with utility regulators and had his golfing fees picked up by them. Now, you could say, no big deal. I do not believe he is going to bend over backwards to change his testimony or his opinions based on a game of golf, but does it create an impression or an appearance of impropriety? A judge would not do it, and I do not think a commissioner should do it either.

I am further concerned, and I realize that this again is somewhat at odds with my colleagues, that this appointment now makes the Public Utility Commission 100-percent Republican. I believe that, again, the appearance is that this commission has been politicized. I think that there is certainly room to have bipartisan membership on the Public Utility Commission in Pennsylvania. I think it is desirable, both for appearance and for substance. For these reasons, I am going to cast a "no" vote for this nomination.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Bell.

Senator BELL. Mr. President, during the hearing, one item that arose had to do with the attitude of Commissioner Bloom. He made the statement that in the future the responsibilities and duties of the PUC will decline. I differ radically with that opinion. In the future, the responsibilities of the PUC members to our neighbors will be even more important. I speak of the fact that it is absolutely imperative that in the future items like electric current will be adequate and reliable. And if these mergers take place and the leadership of a utility like PECO goes to Illinois, it is going to be imperative that our PUC be policemen to watch carefully as to adequacy and reliability.

Already we have problems in this field. In part of my district in Chester County we had some summer storms 2 years ago and it took 4 days for electricity to be restored. Food spoiled, all kinds of problems. What if that happened in the wintertime? So I have since talked to one commissioner and the chairman of the commission emphasizing that despite what Commissioner Bloom told our committee that the responsibilities were declin-

ing, that the responsibilities are actually inclining. And in the future, the members of the PUC will have to get out from behind those desks and go out to all parts of Pennsylvania to police the systems to make sure we have adequate electricity, telephones, natural gas, and water.

I put this on record because I may not be here 5 years from now, but some of you will be. Yes, I will be here in 5 years, I was told. That is all right, I am going to make it this year, I have no opposition.

But very seriously, the PUC is a legislative body. It is not a part of the executive branch. And you fellow Senators always make sure that the PUC is serving our neighbors in the way that we want them to be served. I congratulate Senator White for her position.

Thank you, Mr. President.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Wenger and Senator Earl have been called from the floor to their offices, and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Without objection, those leaves are granted.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I ask for temporary Capitol leaves for Senator O'Pake, Senator Stout, and Senator Fumo, who I believe is detained in his office.

The PRESIDENT. Without objection, those leaves are granted.

And the question recurring,  
Will the Senate advise and consent to the nomination?

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

YEA-29

Armstrong	Greenleaf	Mowery	Thompson
Bell	Hart	Murphy	Tilghman
Brightbill	Helfrick	Piccola	Tomlinson
Conti	Holl	Punt	Waugh
Corman	Jubelirer	Rhoades	Wenger
Dent	Lemmond	Robbins	
Earl	Loeper	Salvatore	
Gerlach	Madigan	Slocum	

NAY-17

Bodack	Kasunic	Schwartz	Williams
Boscola	Kitchen	Stout	Wozniak
Costa	Kukovich	Tartaglione	
Fumo	LaValle	Wagner	
Hughes	O'Pake	White	

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.  
Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

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

The motion was agreed to by voice vote.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 537 (Pr. No. 546) -- The Senate proceeded to consideration of the bill, entitled:

An Act requiring that, when motor vehicles are serviced or repaired, any parts replaced must be returned upon request, and providing penalties for noncompliance.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

YEA-46

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earl	LaValle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

NAY-0

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

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

SB 714 (Pr. No. 778) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, The Fiscal Code, further providing for reports to the Secretary of Revenue.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

YEA-46

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earll	La Valle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

NAY-0

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

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

BILLS OVER IN ORDER

**HB 945, HB 1087, HB 1099, SB 1101, SB 1117, SB 1178, SB 1223, SB 1224, SB 1251, SB 1259 and SB 1305** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1410 (Pr. No. 1843)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 20, 1996 (P.L.1504, No.195), entitled Taxpayers' Bill of Rights, repealing the expiration date of the act.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

YEA-46

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earll	La Valle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

NAY-0

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

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

**SB 1417 (Pr. No. 1864)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 13, 1999 (P.L.905, No.57), entitled Drought, Orchard and Nursery Indemnity and Flood Relief Act, increasing grant limits for drought relief.

Considered the third time and agreed to,  
And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

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

YEA-46

Armstrong	Greenleaf	Madigan	Tartaglione
Bell	Hart	Mowery	Thompson
Bodack	Helfrick	Murphy	Tilghman
Boscola	Holl	O'Pake	Tomlinson
Brightbill	Hughes	Piccola	Wagner
Conti	Jubelirer	Punt	Waugh
Corman	Kasunic	Rhoades	Wenger
Costa	Kitchen	Robbins	White
Dent	Kukovich	Salvatore	Williams
Earll	La Valle	Schwartz	Wozniak
Fumo	Lemmond	Slocum	
Gerlach	Loeper	Stout	

NAY-0

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

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

BILLS OVER IN ORDER

**SB 1418 and HB 2088** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

SECOND CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

**SB 972 and SB 1212** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

PREFERRED APPROPRIATION BILLS ON SECOND CONSIDERATION

**HB 2362 (Pr. No. 3154)** -- The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations from the Professional Licensure Augmentation Account and from restricted revenue accounts within the General Fund to the Department of State for use by the Bureau of Professional and Occupational Affairs in support of the professional licensure boards assigned thereto.

Considered the second time and agreed to,

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

**HB 2363 (Pr. No. 3155)** -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from the State Employees' Retirement Fund to provide for expenses of the State Employees' Retirement Board for the fiscal year July 1, 2000, to June 30, 2001, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2000.

Considered the second time and agreed to,

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

**HB 2364 (Pr. No. 3418)** -- The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations from the Workmen's Compensation Administration Fund to the Department of Labor and Industry and the Department of Community and Economic Development to provide for the expenses of administering the Workers' Compensation Act, The Pennsylvania Occupational Disease Act and the Office of Small Business Advocate for the fiscal year July 1, 2000, to June 30, 2001, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2000.

Considered the second time and agreed to,

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

**HB 2365 (Pr. No. 3157)** -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from the Public School Employees' Retirement Fund to provide for expenses of the Public School Employees' Retirement Board for the fiscal year July 1, 2000, to June 30, 2001, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2000.

Considered the second time and agreed to,

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

**HB 2367 (Pr. No. 3159)** -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund to the Office of Consumer Advocate in the Office of Attorney General.

Considered the second time and agreed to,

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

**HB 2368 (Pr. No. 3160)** -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund to the Office of Small Business Advocate in the Department of Community and Economic Development.

Considered the second time and agreed to,

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

#### BILL ON SECOND CONSIDERATION

**HB 28 (Pr. No. 2769)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for harassment and stalking; providing for reimbursement to Commonwealth for business relocation; further providing for drug trafficking sentencing and penalties; and providing for split sentences.

Considered the second time and agreed to,

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

#### BILLS OVER IN ORDER

**HB 30 and SB 121** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

#### BILL ON SECOND CONSIDERATION

**SB 172 (Pr. No. 1799)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for neglect of care-dependent person and for advance directives for health care; providing for out-of-hospital do-not-resuscitate orders; granting powers to and imposing duties upon the Department of Health; imposing penalties; adding provisions relating to health care agents and representatives; and making editorial changes.

Considered the second time and agreed to,

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

#### BILLS OVER IN ORDER

**SB 506, SB 516, HB 538, SB 553, SB 565, HB 599, HB 609, SB 704, HB 728, HB 777, SB 782, SB 783, SB 784, SB 785, SB 786, SB 935, SB 1022, SB 1093, HB 1140, HB 1141 and HB 1142** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

#### BILL ON SECOND CONSIDERATION

**SB 1244 (Pr. No. 1592)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 2, 1915 (P.L.736, No.338), entitled, as reenacted and amended, Workers' Compensation Act, providing

for payments of benefits to certain claimants who are not covered by the Self-Insurance Guaranty Fund; establishing rights and obligations of the Department of Labor and Industry relating to such payments; providing for restriction on the amount of such benefits that may be paid; and making an appropriation.

Considered the second time and agreed to,

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

#### BILLS OVER IN ORDER

**SB 1265, SB 1275, SB 1281, SB 1282, SB 1284, SB 1285, SB 1288, SB 1298 and SB 1313** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

#### BILL ON SECOND CONSIDERATION

**SB 1439 (Pr. No. 1915)** -- The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of (P.L. , No. ), entitled Capital Budget Project Itemization Act for 2000-2001, itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance projects, flood control projects, Keystone Recreation, Park and Conservation projects and public highway projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection, and the Department of Transportation, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection or the Department of Transportation; stating the estimated useful life of the projects; and making appropriations.

Considered the second time and agreed to,

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

#### BILLS OVER IN ORDER

**HB 1588, HB 1856, HB 1962, HB 2037, HB 2069, HB 2092 and HB 2094** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

#### UNFINISHED BUSINESS SENATE RESOLUTION ADOPTED

Senators TOMLINSON, THOMPSON, HOLL, GREENLEAF, EARLL, HART, KASUNIC and TILGHMAN, by unanimous consent, offered **Senate Resolution No. 167**, entitled:

A Resolution designating the week of April 30 through May 6, 2000, as "Chastity Awareness Week" in Pennsylvania.

Which was read, considered, and adopted by voice vote.

#### DISCHARGE PETITIONS

The PRESIDENT laid before the Senate the following communications, which were read by the Clerk as follows:

May 3, 2000

#### A PETITION

To place before the Senate the nomination of Charles P. Bednarik, as a member of the State Athletic Commission.

TO: The President Officer of the Senate:

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

Leonard J. Bodack  
Michael A. O'Pake  
Richard A. Kasunic  
J. Barry Stout  
Vincent J. Fumo

May 3, 2000

#### A PETITION

To place before the Senate the nomination of Paul D. Mills, as a member of the State Horse Racing Commission.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Paul D. Mills, as a member of the State Horse Racing Commission, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Leonard J. Bodack  
Michael A. O'Pake  
Richard A. Kasunic  
J. Barry Stout  
Vincent J. Fumo

May 3, 2000

#### A PETITION

To place before the Senate the nomination of F. Irene Graybill, as a member of the State Board of Speech-Language and Hearing Examiners.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of F. Irene Graybill, as a member of the State Board of Speech-Language and Hearing Examiners, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Leonard J. Bodack  
Michael A. O'Pake



Richard A. Kasunic  
J. Barry Stout  
Vincent J. Fumo

May 3, 2000

#### A PETITION

To place before the Senate the nomination of Andrew DePaolo, as a member of the State Athletic Commission.

TO: The President Officer of the Senate:

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

Leonard J. Bodack  
Michael A. O'Pake  
Richard A. Kasunic  
J. Barry Stout  
Vincent J. Fumo

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

#### CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Mr. and Mrs. Melvin Schaeffer and to Ryan McCart by Senator Armstrong.

Congratulations of the Senate were extended to Anthony DiGiambattista by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. John R. Harris, Sr., Mr. and Mrs. Michael Pruszynski and to the Kuntu Repertory Theatre of Pittsburgh by Senator Bodack.

Congratulations of the Senate were extended to Katie E. Roth, Robert J. Clymer, Faith Christian Academy Boys' Basketball Team and to Child, Home & Community, Inc., of Doylestown by Senator Conti.

Congratulations of the Senate were extended to Mr. and Mrs. Edward D. Fike, Sr., Nora Ella Singer, Bradley Gordon, David R. Fields and to Comanche C. Garcia by Senator Corman.

Congratulations of the Senate were extended to Matthew A. Baber and to Robert Bagzis by Senator Dent.

Congratulations of the Senate were extended to Frank Ciocca and to Michael Ott by Senator Greenleaf.

Congratulations of the Senate were extended to Edward J. Keenan by Senators Greenleaf, Tilghman, and Holl.

Congratulations of the Senate were extended to Henry Robert Frew, Phyllis Ficca and to the Briar Creek Mutual Insurance Company of Orangeville by Senator Helfrick.

Congratulations of the Senate were extended to Charles M. Stajewski, Jr., by Senator Lemmond.

Congratulations of the Senate were extended to the Second Time Around Parents Program of Family and Community Service of Delaware County by Senators Loeper and Bell.

Congratulations of the Senate were extended to the Class of 2000 of Leadership Tioga County's Youth Leadership Program by Senator Madigan.

Congratulations of the Senate were extended to Charles Rosiak, Ronald Starnes, John Yaskoweak, Ann Marie Krantz, Joan Ksiazek, Virginia Senofonte, Margaret Williams, Sara Zeske, Louis Chervenak, Richard Loessy, Richard Marselles, Thomas Rittenhouse, Dennis Pugh and to Joan Mrugal by Senator Mellow.

Congratulations of the Senate were extended to the family of Sergeant Major Austin C. Strohl by Senator O'Pake.

Congratulations of the Senate were extended to John R. Campbell, Carly Sullivan, Connie P. Harris, Robert P. Rynecki and to Eva G. Stenger by Senator Punt.

Congratulations of the Senate were extended to Thomas P. Henry and to Boy Scout Troop 555 of Jim Thorpe by Senator Rhoades.

Congratulations of the Senate were extended to Mr. and Mrs. Newton E. VanBuren by Senator Robbins.

Congratulations of the Senate were extended to Mildred P. Scott-Williams, the Dr. Elaine Ominsky Residence of the Jewish Community Homes for Adult Independence and to the Million Mom March by Senator Schwartz.

Congratulations of the Senate were extended to Mr. and Mrs. Jack Rickard and to Karen K. Fisher by Senator Stapleton.

Congratulations of the Senate were extended to Mr. and Mrs. Richard Machesky by Senator Stout.

Congratulations of the Senate were extended to the Bruce Mansfield Plant of Shippingport by Senators Stout, LaValle, and Robbins.

Congratulations of the Senate were extended to Overington House, Inc., of Philadelphia, by Senator Tartaglione.

Congratulations of the Senate were extended to Jimmy John's of Concordville by Senator Thompson.

Congratulations of the Senate were extended to Oreste Leto, Jr., Vincent Santucci and to Charles C. Brosius by Senators Thompson and Bell.

Congratulations of the Senate were extended to Herbert Phillips and to Jack Foster by Senator Tomlinson.

Congratulations of the Senate were extended to Nancy W. Cherone, Kathleen Kasprzyk, Dr. Sally Witt and to Ginette Isenberg by Senators Tomlinson and Conti.

Congratulations of the Senate were extended to Adam William Barefoot, Jared Seitz and to Sean Baughman by Senator Waugh.

Congratulations of the Senate were extended to Shirley C. Shelly by Senator Wenger.

Congratulations of the Senate were extended to Mr. and Mrs. Albert Jenkinson, Mr. and Mrs. William Antesberger, Sr., and to Mr. and Mrs. Thomas J. Leslie by Senator Wozniak.

#### CONDOLENCE RESOLUTION

The PRESIDENT laid before the Senate the following resolution, which was read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Van Reniere Thomas by Senator Hughes.

**HOUSE MESSAGES****HOUSE BILLS FOR CONCURRENCE**

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

May 3, 2000

**HB 273 and 2272** -- Committee on Judiciary.  
**HB 1863** -- Committee on Local Government.

**BILLS INTRODUCED AND REFERRED**

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

May 3, 2000

Senators BELL, CONTI, LAVALLE, KUKOVICH, SCHWARTZ, BODACK, COSTA and TARTAGLIONE presented to the Chair **SB 1437**, entitled:

An Act amending the act of January 17, 1968 (P.L. 11, No. 5), entitled The Minimum Wage Act of 1968, further providing for minimum wage rates.

Which was committed to the Committee on LABOR AND INDUSTRY, May 3, 2000.

Senators ROBBINS, PUNT, KITCHEN, BELL, HELFRICK, BELAN, WAUGH, WAGNER, TILGHMAN, FUMO, STAPLETON, BRIGHTBILL, SALVATORE, MUSTO, TOMLINSON, THOMPSON, PICCOLA, COSTA, HART, KUKOVICH, WHITE, MADIGAN, RHOADES, BOSCOLA, EARLL, TARTAGLIONE, SLOCUM and GERLACH presented to the Chair **SB 1438**, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, to enhance assistance to veterans in this Commonwealth by establishing the Governor's Veterans Outreach and Assistance Center program in the Department of Military and Veterans Affairs; restructuring certain administrative functions and responsibilities; transferring functions of the Department of Labor and Industry into the Department of Military and Veterans Affairs; and making an appropriation.

Which was committed to the Committee on MILITARY AND VETERANS AFFAIRS, May 3, 2000.

Senator STOUT presented to the Chair **SB 1440**, entitled:

An Act amending the act of May 20, 1937 (P.L. 728, No. 193), entitled, as amended, Board of Claims Act, further providing for compensation for members of the Board of Claims and its hearing panels and for the jurisdiction of the hearing panels; and making a repeal.

Which was committed to the Committee on STATE GOVERNMENT, May 3, 2000.

Senators SCHWARTZ, COSTA, HUGHES and TARTAGLIONE presented to the Chair **SB 1441**, entitled:

An Act amending the act of July 19, 1979 (P.L. 130, No. 48), entitled Health Care Facilities Act, providing for hospital staffing, for protection for health care facility employees who initiate or intend or attempt to initiate certain actions related to health care facility care or services and for violations.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, May 3, 2000.

**BILL SIGNED**

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the presence of the Senate signed the following bill:

**SB 380.**

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

The SECRETARY. Consent has been given for the Committee on Local Government to convene during today's Session in the Rules room to consider Senate Bill No. 1409.

**RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, for the information of the Members, we are still waiting for a bill to come over from the House of Representatives. I am not certain of the timeframe when it will be here. However, I suggest at this time that the Senate stand in recess to the call of the Chair.

The PRESIDENT. The Senate will stand in recess to the call of the Chair.

Senator LOEPER. Mr. President, if I can amend that, my understanding is that there is a necessity for an off-the-floor meeting of the Committee on Local Government, and if we could have the Committee on Local Government meet in the Rules room at the rear of the Senate Chamber and then the Senate stand in recess to the call of the Chair.

The PRESIDENT. And that intention will be reiterated by virtue of the announcement of the Secretary concerning the convening of the meeting of the Committee on Local Government in the Rules room immediately following this announcement, and again, this Senate stands in recess to the call of the Chair.

**AFTER RECESS**

The PRESIDENT. The time of recess having expired, the Senate will come to order.

**REPORT FROM COMMITTEE**

Senator GERLACH, from the Committee on Local Government, reported the following bill:

**SB 1409 (Pr. No. 1842)**

An Act amending the act of May 1, 1933 (P.L.103, No.69), entitled, as reenacted and amended, The Second Class Township Code, further providing for assessors.

### BILL ON FIRST CONSIDERATION

Senator BELL. Mr. President, I move that the Senate do now proceed to consideration of the bill reported from committee for the first time at today's Session.

The motion was agreed to by voice vote.

The bill was as follows:

#### SB 1409.

And said bill having been considered for the first time,  
Ordered, To be printed on the Calendar for second consideration.

### LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Bell has been called to his office, and I request a temporary Capitol leave on his behalf.

The PRESIDENT. Without objection, that leave is granted.

### HOUSE MESSAGE

#### HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO SENATE BILL BY FURTHER AMENDING SENATE AMENDMENTS

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to House amendments to SB 652, by further amending said amendments, in which concurrence of the Senate is requested.

### RULE XIV SUSPENDED

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I move to suspend Rule XIV, section 5, to the extent that it requires that Senate Bill No. 652, as amended by the House on concurrence, be referred to the Committee on Rules and Executive Nominations, and that Senate Bill No. 652 be placed on a Supplemental Calendar.

The PRESIDENT. Senator Loeper moves for the suspension of Rule XIV, section 5, to the extent that Senate Bill No. 652 would be referred to the Committee on Rules and Executive Nominations, and further, that it appear on today's Calendar.

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

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I ask for a "no" vote on this motion.

The PRESIDENT. Senator Bodack requests a "no" vote.

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

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

#### YEA-29

Armstrong	Greenleaf	Mowery	Tilghman
Bell	Hart	Murphy	Tomlinson
Brightbill	Helfrick	Piccola	Waugh
Conti	Holl	Punt	Wenger
Corman	Jubelirer	Robbins	White
Dent	Lemmond	Salvatore	
Earll	Loeper	Slocum	
Gerlach	Madigan	Thompson	

#### NAY-17

Bodack	Kasunic	Rhoades	Williams
Boscola	Kitchen	Schwartz	Wozniak
Costa	Kukovich	Stout	
Fumo	LaValle	Tartaglione	
Hughes	O'Pake	Wagner	

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

### SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

#### SENATE CONCURS IN HOUSE AMENDMENTS TO SENATE AMENDMENTS

SB 652 (Pr. No. 1922) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for reports; requiring school districts to file management information reports; further providing for auxiliary services to nonpublic schools, for reports on exceptional students, for continuing professional development, for school lunch and breakfast reimbursement, for basic education grants, for higher education funding, for full-time student community college reimbursement, for small district assistance, for basic education funding, for payments to intermediate units, for special education payments, for school and institute operation, for vocational education funding and payments, for minimum basic education payments, for extraordinary special education payments and for school performance incentives; adding a definition and provisions relating to education empowerment; and providing for an education empowerment list and education empowerment school districts and for their operation and for a Mandate Waiver Program.

On the question,  
Will the Senate concur in the amendments made by the House to Senate amendments to House amendments to Senate Bill No. 652?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate amendments to House amendments to Senate Bill No. 652.

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

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Robbins has returned, and his temporary Capitol leave is cancelled.

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

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, before us today we have contained in Senate Bill No. 652, which was just returned to us by the House, a very important education reform proposal. It is one that is certainly going to help students in schools in every community in the Commonwealth because this legislation includes some bold, new educational initiatives. And there are those who would argue that we delay action or take no action at all tonight, but, Mr. President, as someone who I think shares with many of us in this Chamber that what we want is the best for all our children, I believe we must act now. The time to act is now. This is a proposal almost identical to one that we talked about almost a year ago, to try to help the youngsters throughout Pennsylvania, particularly in 11 specific school districts whose academic achievement falls far below the median in test scores throughout this Commonwealth as compared to others in our 501 school districts.

Mr. President, the time is now. We cannot wait 1 year, 2 years, or 5 years. It may not seem like much time in an adult's life, but for a school-aged child, 5 years is a lifetime. It can be the difference between succeeding or failing with the education of that young person. And, Mr. President, I believe that the legislation that is contained in this bill and the empowerment proposal is aimed at one thing, which is helping students in these schools to learn and to succeed and to have the same opportunities as every other child in our school districts throughout Pennsylvania.

This is an important goal, Mr. President, but the legislation before us today goes beyond helping students in low-performing schools. It will help all of our Commonwealth schools to seek relief from costly State mandates, and it will enable those schools to find new and innovative ways to teach students, streamline their operations, and in the long run save taxpayers money and make productive adults out of the students who graduate from those schools. The bill, Mr. President, also provides significant new investment above the Governor's budget requests for important educational programs and services. More money will be available for basic education programs, for special education, community colleges, school breakfast and lunch programs, as well as vocational education.

Mr. President, those who will benefit most from this bill are the children of Pennsylvania, students who do not have 5 or 10 years to wait for reform and change and improvement, students who cannot afford to have the debate and delay that we have experienced many times on many educational proposals that are

new and innovative and challenge us many times in this Chamber, and I believe, Mr. President, families who want a better life and every opportunity for their kids.

And finally, Mr. President, it will benefit the schools that need help but do not have the tools or resources to make the necessary improvements in order to benefit the youngsters who attend those schools.

Mr. President, it is for this reason that I urge passage of this bill. It is an important and necessary reform measure that will allow us to begin now in making a difference in the lives of many of our children throughout the Commonwealth. Mr. President, I ask for an affirmative vote on Senate Bill No. 652.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, I rise today as chairman of the Senate Committee on Education, at least I thought I was, to discuss a piece that never came before our committee, and I do not know why, because I can tell you what a difference a decade makes in denying public disclosure on accountability. I rise as an advocate for academic accountability in the Commonwealth's public schools, because I can say I first introduced academic accountability legislation in 1992. And then, as now, I believe that academic accountability was a crucial step in the process of reforming our school system. Then, as now, I know we must hold our schools accountable for results so that our students can succeed in the competitive modern economy. The difference between then and now is simply this: Then I was told that no one had the answers to the difficult questions posed by the idea of holding our schools accountable to high standards; now I am told that everyone already has the answers to these difficult questions, so there is no reason to expose the issue to public debate. What a difference a decade makes.

What has not changed is this: The process of school reform includes three important elements - standards, assessment, and accountability.

Standards. Through a lengthy process of study, compromise, and debate, we crafted a set of clear, objective, and measurable standards in math, reading, and writing. Standards we unanimously passed in here, my bill, went over to the House and it died in the House. So they talk about providing leadership, they are slow in the process. The Governor picked it up and carried it.

Assessment. Through a lengthy process of fine-tuning, clear writing, and experimentation, we created a testing mechanism in our PSSA exam. The only thing is it is still being developed.

Now today in the Senate we will approve an academic accountability bill that has not been considered by committee, has not been studied by real educators in real schools, and has been introduced for the Members of this body only in the last 12 days. Mr. President, the Members of this body must have a great deal of confidence in this proposal, because they are prepared to approve it without any opportunity to solicit public input and without any thorough study of the issues. Some Members must be very confident today, Mr. President. I am certainly not one of them. How can we have confidence in a proposal that was introduced in this Senate less than 2 weeks ago, was changed and amended in the Senate Committee on Rules and Executive

Nominations, not the Committee on Education, and then sent to the House where it was amended again, but without going to either committee? How can we have confidence in a proposal that has not been the subject of hearings, research, and study? How can we have confidence in a proposal about which our Commonwealth's educators have had no opportunity to comment? The answer is very simple: we cannot.

I have heard my colleagues tell me that the problems in these 11 empowerment districts are so acute that the students who live within them cannot wait another day for reform. If it was so acute, why was it not addressed 12 years ago or 6 years ago?

I do not wish to deny opportunities to any child in this Commonwealth, I do not wish to lengthen the cycle of failure for another moment, but to those children I say this: I will not abdicate my responsibility as a legislator or as a constitutional steward of public education by voting for a bill that Members of this Senate have had no opportunity to debate, amend, or discuss.

I have served as a Member of this body for 20 years. It is and has always been an honor to walk these halls, to debate in this Chamber, to cast my vote from this floor. I respect this institution and the democratic republic it embodies. In fact, I revere it. But today, Mr. President, I am saddened to rise in opposition to this bill. I give this Senate and the Members who serve here more credit than that. I do not fear the compromises that public discourse on this proposal would encourage, I welcome them. I do not shrink from public scrutiny of my views, I encourage it. I do not run from my responsibility as a legislator, I relish the challenges of the oath of office I take at the beginning of every term.

Today, Mr. President, the only way I can uphold my constitutional duty is to say "no" when my name is called. I am voting "no" today not because I want to kill this bill, I am voting "no" today because I want the opportunity to fix this bill, to have an impact on the debate, and to bring the parties together in search of excellence. That is my job. Mr. President, that is what we here in this Chamber are elected to do. We are not elected to stand here and be deprived of our voices, to be deprived of the representation our constituents expect from us. We are elected to stand up and be counted, to make the tough choices, to find the middle ground. And today to my friend, the Majority Leader, I say to him, as I did yesterday, and to all of my colleagues, I stand ready to work with you to craft an accountability bill that makes sense, that can work, and that can accomplish our objective: to empower all of our schools to meet the high standards we have set for them.

Mr. President, I ask my colleagues to vote "no" on this bill and so support the fair and deliberative legislative process that this Senate has long upheld, a process that can lead to an academic accountability bill defined by public input, tempered by debate, and molded by compromise, an academic accountability bill that can work.

I do not stand alone, and even before this bill started moving through the process, it is interesting to note in the Patriot-News from Sunday, April 23, 2000. (*Reading:*)

## ACTION PLAN

State needs an agenda before it moves to take over distressed school districts.

The proposed Education Empowerment Act is a much-needed piece of legislation. —**We all agree to that.**

But the state should not even think of taking over a school district unless it has a specific plan to launch the process of improvement immediately, not six months or a year later after the new state-imposed administration has figured out what it is doing.

Every dysfunctional school district - defined in the legislation as those in which 50 percent or more students score in the bottom 25 percent of math and reading tests for two years - presents its own challenge. So while it may not be the function of this legislation to micromanage to the point of prescribing a plan, certainly it should require that the Department of Education have a well thought-out strategy in place before taking over.

Simply giving a state-appointed board of control additional powers to hire and fire at will, change curriculum, develop new charter schools and contract with a private educational provider isn't enough.

Indeed, in the early going, it could prove to be a prescription for educational chaos.

Districts that have been identified as academically distressed - among them Harrisburg and Steelton-Highspire - tend to serve areas with high numbers of low-income families. Poverty is a major contributor to low academic achievement. While that should not be used as an excuse to justify continuing failure, it must not be dismissed, either.

We are troubled by the notion contained in this legislation that districts can turn around their poor performance in a mere two or three years - or that, in their absence, the state can achieve it in a reasonable period. This legislation seems to put its faith in gimmicks, such as charter schools, as a cure for what ails dysfunctional schools. But we sense that it won't be easy and won't occur without an infusion of far more funding than this bill provides.

It's more likely that rescuing schools and their students requires a long-term commitment, that begins before the children are even in school by making learning a major part of the lives at the earliest possible age. The effort has to continue grade by grade, student by student, into the difficult middle-school years, where urban education tends to fall apart, and on into high school and beyond.

The state long ago should have declared failing schools unacceptable and set about reversing their downward spiral. Finally, we've come to the point where there appears to be sufficient political support for the state to intervene.

That's indisputably important, but it amounts to only half a step. Without a sound plan of proven educational strategies that work in lifting up urban schools, and without sufficient financial resources behind them, the whole exercise could prove to be as great a failure as those they seek to set right.

For the sake of the students attending these schools, the state had better know what it is doing before it becomes another educational provider that failed to deliver on its promises.

Well, let me put it this way. Not having had the opportunity to review this in my committee, not having had the opportunity to give it public debate and scrutinize it, I think maybe I can have my public hearing here. I would like to share with you and put upon the record some materials I have gathered. I think you are all familiar with the Education Commission of the States formed by the governors, manned by the governors and legislators and educational policy people across the United States. Remember, Governor Romer from Colorado was a member, I think Governor Engler from Michigan was also a member. One was a Republican, one was a Democrat. This is not a partisan kind of issue.

But there is an issue that came out and they have a series of reports. I will not read the whole report to you, although I should. I will not. This one is entitled, "State Takeovers and Reconstitutions Policy Brief," by Todd Ziebarth. They go into opposing perspectives on State takeovers, and they give you positives as well as negatives. But here are the effects of State takeovers. Now this is from policy people, from educational policy people: *(Reading)*

There is a scarcity of research on the effects of state takeovers. For the most part, they seem to be yielding more gains in central office activities than in classroom instructional practices. As evidence, state takeovers are credited with the following:

- Eliminating nepotism within district decisionmaking processes
- Improving the district's administrative and financial management practices
- Removing the threat of teacher's strikes
- Upgrading schools' physical condition --and let me add, if you have the money--
- Implementing innovative programs, such as small schools programs and cooperative arrangements between schools and social service agencies.

Despite these positive aspects, student achievement often falls short of expectations. In most cases, academic results are usually mixed at best.

Now, let it not be said that there are some positive effects. West Virginia succeeded in Logan County because it kept the local board in place, albeit with reduced powers. Even in Chicago the mayor was given authority to take over. Well, let me say this: Maybe we should do this in Philadelphia, but we will never know because we will never have a chance to have it in committee or have a public hearing. *(Reading:)*

As with most policies, the implementation of state takeovers has produced unintended consequences. --And this is something that I think people should pay attention to-- Most dramatically, certain states are facing questions concerning the federal Voting Rights Act of 1965. In essence, the U.S. Department of Justice views state takeovers as potentially violating local voter rights to elect local officials and is requiring certain states to obtain the department's clearance before taking over a district. The state of Texas filed a lawsuit against the department, with the intention of freeing Texas from obtaining department clearance for a state takeover. However, the U.S. Supreme Court refused to hear the suit, primarily because there was no test case for them to review. Thus, this issue remains unsolved.

How is that point addressed in this bill? Can we discuss it? Can we talk about it? In committee? In public?

Questions that should be asked about Senate Bill No. 652: *(Reading)*

#### Criteria

\*What are the characteristics of high- and low-performing districts? How can these factors be measured? --And that does not mean only with PSSA scores, that means characteristics of the district, because there are a lot of things outside the school that affect what goes on inside.

\*What criteria are used to identify districts eligible for state takeovers? How often is district performance monitored (e.g., every year, every 3-5 years, etc.)? Does a concentration of failing schools suggest problems endemic to the school system or specific to the schools not succeeding? --How do we handle it in this bill?

\*Should a state intervene in a low-performing district? If so, what are the grounds for intervention? Does it take a local school district's total collapse to trigger state involvement? Are there other approaches that are more effective and efficient than a state takeover in improving district performance? --Can we talk about it? Because there are. There are many.

\*Do state education departments have the ability (i.e., resources, expertise) to run a local school district? --If we use Chester-Upland as an example, we have been there for 5 years and we are still on the bottom, unfortunately.-- Can the state provide the support or assistance the district needs? --Is it willing to provide the support it needs?-- Can state takeovers generate and sustain improved instruction? How do state departments of education balance their oversight role with their operating role in a credible and objective manner?

\*If officials in low-performing districts are given the same authority (e.g., ability to change staff, remove collective bargaining agreements etc.) --the same thing we are doing-- as state-selected officials, can they improve the district's performance?

\*How does a state set goals for its takeover efforts? How does a state fund a takeover? --\$450,000 has now been amended into the bill. Before it was \$75 a head. Text books cost \$75 a head in one class.

\*Will the state involve district policymakers, administrators, teachers, students and parents in their reform efforts? Within a state takeover, what are the roles of these various groups?

\*Should the state involve other statewide groups, such as the teachers' union, the school boards association or the administrators association, in its takeover efforts?

\*How do states determine whether students are making sufficient progress to allow control to revert back to local officials?

\*How much time should states give districts to improve? When and under what conditions should a state withdraw from a district?

\*If a state takeover fails to yield sufficient improvement in student achievement in the specified time, what is the next step? --If the Commonwealth cannot do it, what are we going to do after that?

\*How does the state prevent the district from backsliding --into the previous years or going back into another takeover process?

\*Beyond the immediate crisis, how does a state improve the ability of local people, from school board members to teachers, to work more effectively?

\*What is the state's role in assisting local districts before they are in crisis?

#### CONCLUSION

As with many education "solutions," the effects of state takeovers and reconstitutions on student achievement are debatable, partly because of the lack of strong research evidence about this relationship. State and district policymakers are faced with a perplexing situation. They are constitutionally responsible for ensuring that each child receives an "adequate" education, yet two of their more extreme approaches --and that is what they call this, extreme approaches-- for improving the performance of low-achieving districts and schools often produce marginal results. The tough question remains: What can state and district policymakers do to improve the education of children in low-performing districts and schools?

Again, I did not say this, I did not make this up. This is in the report that comes out of the Education Commission of the States, made up of Republicans, Democrats, governors, legislators, and policymakers.

Continuing the debate: *(Reading)*

Most of the literature reviewed for this policy brief included at least one research study and numerous articles and covered four main issues. --In other words, when you are looking at making some accountability changes, you are looking at,-- (1) changes in governance, (2) impact on teaching and learning, (3) incentives and sanctions, and (4) effects on attitude. --A synthesis in these four categories is impor-

**tant and has to be organized around the arguments for and arguments against academic bankruptcy, and it has to be developed through public input.**

Arguments Against Academic Bankruptcy (Teaching and Learning Issues)

\* Takeover programs tend to focus more on compliance and less on school improvement. ([They] spend more energy trying to get out of Stage II —or out of the hole— than on improving teaching and learning practices).

\* Academic bankruptcy provisions don't usually consider other factors that affect children academically —and that is where they make the biggest mistake and that is where we make our biggest mistake, because all we are doing is looking at one test. It does not work that way.

\* Direct impact on schools is insignificant when a state takes over a district. (e.g. extra resources for staff development don't reach school sites).

### CONCLUSIONS/RECOMMENDATIONS

Academic bankruptcy takeovers occur most often in urban districts where other problems, such as financial mismanagement, exist in addition to the problem of low performance. States need to find ways to look at urban issues holistically and to develop effective strategies for meeting the unique needs of urban schools.

While states have seen some progress in schools that have been taken over, it takes many years for real improvements in student achievement to occur. States should identify and make accessible to failing districts those policies and practices proven successful in other troubled districts.

In order to ensure a smooth transition from state control to local control, states should develop training for the new leadership (e.g., introduce key people to each other, discuss policies and programs that have been developed and effective over the last few years, discuss goals/plans for the future and provide consistent support). **--If you look in Senate Bill No. 652, it is not there. If you get out, you just turn it back over, and there are a number of questions we have there.--** A primary goal of capacity-building ought to be to ensure stability of leadership and vision for troubled urban districts over a long period of time.

When possible, states should position themselves more as partners and less as the bad guys when they intervene in a district or school. Local solutions and implementation always are better than top-down strategies. The role of states ought to be to use their partnerships with urban districts as a way to develop collaborations, enhance capacity-building and provide technical assistance whenever needed.

States should make regular reports to the communities where the intervention occurred and recognize accomplishments in low-performing schools and districts. **--We do not have that. We have reports made from the community to the State, but not from the State back to the community.--** Positive news is good to hear after so much negative news.

Districts that have been taken over usually receive some form of additional financial support. It is critical that a district's long-term success be independent of these additional funds because once the district is returned to local control, funding is likely to be gone as well. States need to find ways of using existing resources to fund proven practices in low-performing districts. **--So once the money is gone, and it is not coming from the State, somebody has to provide it to keep us going.**

Again from ECS: *(Reading)*

### State Quality Indicators

The four main categories of indicators used [in accountability] relate to: (1) students, for example, assessment scores, diversity, dropout rate and truancy; (2) professional staff, including attendance, experience and salary levels; (3) program, for instance, curriculum, climate and parent involvement; and (4) expenditures and use of resources,

which includes per-pupil expenditure. Though items in the last three categories are not immediate indicators of gains in student achievement, they are perceived by educators, legislators and researchers as having a direct relationship to student achievement.

Let me tell you, there are 18 different indicators that are used across the 22 States in this nation that they use to determine what is a failing school. Not just one, but 18 for students; for professional staff, 11 different items; in the program, 4; and then they have for expenditures and use of resources. Let me tell you that California, in their low-performing schools, has 8 criteria, Connecticut has 10, and Indiana has 11. Kentucky, one of the first changers, has 5. Seven of the indicators are used by 16 or more States. They are assessment scores, student behavior, which includes discipline, truancy, expulsion and/or suspension, dropout rate, student attendance, expenditures and use of resources, including per-pupil expenditure, the graduation rate, and the transition, which is the education or employment after high school graduation.

Using all these things together, there is more here, I am not going to go through it, but, again, could we discuss this? Could we talk about this in the Committee on Education? Could we do it somewhere else, anywhere else, aside from here where it is an up-or-down vote, a "yes" or "no," no chance to modify or change?

Another paper done by ECS, this is "The Promise and Reality of Rewards for School Improvement," out of Indiana, Kentucky, Texas, and South Carolina. A report researched by, again, ECS. Let me go back to policy recommendations. *(Reading:)*

Performance-based rewards do not themselves provide sufficient motivation for school improvements. State accountability systems are important strategies. But intrinsic rewards, nonmonetary recognition of improvements, and public awareness of poor performance are more motivating than money. In addition, targeted capacity building in low performing schools offer greater promise for strengthening education.

There is a whole list of categories and recommendations that will be used. I will share that if anyone is really interested.

And then there is a final report, "How Good is Good? How Bad is Bad? - Accountability Programs for Education," again by the Education Commission of States, November 1997. This was a working session on State intervention and takeover. Now, I am just going to excerpt some of this. *(Reading:)*

In late September [of 1997], representatives from 22 states, several national education organizations, and educational laboratories gathered in Nevada for an intensive discussion of how to handle low-performing schools and districts. **--Paraphrasing and moving on:**

At the meeting, Robert Lunsden, associate commissioner of education for Kentucky, got a lot of agreement from others when he said, "The way people implement policy makes the policy - not the words in the policy." This was echoed by Leo Klagholz, New Jersey's commissioner of education. He pointed out that the takeover process had to draw its underpinnings from the state constitution and couldn't be **-- should not be--** adversarial.

In speaking of his experiences in Kentucky, Lunsden said that the lessons he learned were: (1) one must have a philosophy that emphasizes help; (2) one must put maximum effort into a new program so as to get a high success rate quickly; (3) one must report on how the program is working before all the results are in, so that political support

doesn't erode; and (4) one must be careful not to create a new reporting bureaucracy. Any failure in the early takeover attempts, everyone agreed, would make subsequent efforts more difficult. But as one of the participants said, takeovers are works in progress: no two buildings or districts are the same, it is a complex process, and the states simply have to learn on the job.

Are the attempts succeeding? Klagholz emphasizes that state takeovers are an appendage of the larger issue of school improvement. Cleaning up the central office, rooting out corruption, and establishing better management procedures, everyone agreed, are the first areas where success is visible. Stabilizing and turning around student achievement is a much slower process. Klagholz said that, after six years of the first takeover in New Jersey, signs of student achievement gains are becoming visible. A Florida representative emphasized that the goal should be never to have to take over a district, but always to save it in the early stages of intervention.

Among the primary causes of low performance, especially in urban areas, **—and I think that is what we are talking about here today, mainly—** are poverty and a mobile population. Boyd pointed out that in Cleveland these issues caused the city government to view the school district as a force for economic stabilization. **—I wish there was one Member here I could share this with, because he did bring it up. Oh, he is here—** Over a period of years, management and budget decisions were made that placed jobs ahead of student instruction. Thus city government issues and union issues were addressed before classroom concerns. One of the big questions for all participants at this working conference was, How can a situation that is triggered by economic and mobility issues be fixed just by takeover legislation? **—They also pointed out that it includes many people participating, and PSSA scores are not the only indicator of what the problem is.**

Another important matter is establishing decision points to determine what is acceptable growth for a district, so that the improvement process can proceed. Takeover is quick, but intervention takes time and resources. Moreover, multiple indicators should be used for identifying low performance. The reliance on one set of test scores, **—I am reading this, not just saying this, this is coming out of ECS—** especially if evidence of curricular alignment is lacking, could open everyone up to new levels of litigation.

The bottom line for all the state takeover and intervention policies is that the state can't stay forever - local ownership has to be developed.

The questions I think we have to ask are, is the average of 50 percent of students failing weighted for the number of students taking the test? Do you adjust the number of students who do not take the test, do you adjust for that? Can you justify why this proposal only offers to help 11 districts that reached the 50 percent figure, but it offers no School Improvement Grants to those districts that have well over 40 percent of their students scoring in the bottom quartile? Can you justify offering these grants to Steelton-Highspire or York City, which had 50 and 50.2 percent failing respectively, but nothing for Allentown, which had just under 50 percent?

DPE has endorsed and provided incentive grants through the use of multiple models for assessing teacher performance, such as the one being implemented in the Colonial School District. Why do we not use a similar approach, one that accounts for relevant factors such as poverty, instructional spending, and student attendance to assess school performance?

I point out one other thing, too. If you get a chance, get on the Internet and pull up "The Civil Rights Project" from Harvard University, "The Development and Impact of High Stakes Testing." It was done by TAAS, which is a Texas system. It begins to tell you how fallible those tests are in terms of determining just exactly what is happening to kids.

"K-12 Accountability and School Improvement" is from the Southern Regional Educational Board. You know, we always accuse them in the South of being less able to do than we here in the Northeast. Maybe we ought to learn a few lessons from them. They dealt with more recent efforts focused on five core elements: content and student achievement standards; testing; professional development; accountability reporting; and rewards, sanctions and targeted assistance.

Let me just deal with the rewards, sanctions, and targeted assistance. *(Reading:)*

Rewards, sanctions and targeted assistance should be:

- Fair, consistent and equitable
- Based on clear rules **—I look at the bill and I begin to think that it is a computer loop**
- Balanced with one another
- Based on both absolute standards and improvement
- Supported with adequate and sustained financial resources.

In addition, targeted assistance should:

- Focus on producing results
- Develop the ability of school staff to plan for and achieve continued improvements toward high standards.

Do rewards, sanctions and targeted assistance work over the long haul? The jury is still out, but several states have learned some lessons about them. Fairness, consistency, clarity and balance are essential in all areas of accountability systems, including rewards, sanctions and targeted assistance.

I will let you go on the rest of that one, for now.

Another thing that came out on January 12, 2000: "Florida Cabinet Revises School Accountability System." They have had one. *(Reading:)*

Florida provided financial awards this past fall **—this is 1999—** of up to \$100 per student to schools that received an A on the state's grading scale—which is based largely on state test scores—or showed "significant improvement." **—Now you say, well, they are doing it with test scores. That is why I want to talk about this thing, so we can find out what the best system is.—** Under the new provisions, schools that improve by one letter grade from one year to the next, as well as those earning A's, are eligible for the rewards. In addition, F-graded schools that fail to improve a whole letter grade, but still show significant improvement, will qualify to receive extra money.

...the Florida Cabinet...also made other changes to the accountability system, which was approved by the legislature last spring. The Cabinet expanded the number of grades tested and made attendance, dropout, and discipline rates bigger factors in schools' grade assignments. **—So they are using a number of other issues.—**

...Cabinet members also approved a measure that would reduce a school's letter grade by one level if it reports absenteeism, dropout, or suspension rates that are significantly above the state average.

[They also] addressed concerns that high student-mobility rates could distort the grades awarded some schools. **—That is kids coming in and out of schools.—** The new provision requires that a student be in the same school from October through at least the following February for his or her state test scores to count toward the school's grade for that academic year.

And lastly, let me just tell you about these, I will not read them to you. Parental involvement, there is 30 years of research on that. Do you know what it says about parental involvement? It works. This is part of our program. Not parental involvement that requires parents to be involved. You can send out newslet-



ters and report cards just as we are doing now, according to this bill. It is not specific enough or driving enough.

Class size reductions, we talked about it, and it is a nice idea in here, but we have not done anything about it.

Discipline codes and policies, that is one of the things that annoys me most of all. We did discipline codes, we did a whole safe school proposal and sent it over the House last year, and it is still over there and has not been acted upon. That is one thing that is upsetting. And wraparound social services is not even a part of this, but it should be a part of this.

Let me stop at this particular point. I will come back later on because I have some issues on the bill itself, and I think they can be addressed when someone else has had a chance to speak.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Mr. President, I rise to very strongly and very passionately urge that the Senate concur in the House amendments to this bill. For over 256,000 young Pennsylvanians, Pennsylvania students in public schools throughout this Commonwealth, this could be the most important vote cast on their behalf during their young lifetimes. Why do I say that? Well, I believe that this vote is about hope, it is about accountability, it is about improvement and excellence in public education.

Why do I say that? I agree with the chairman of the Senate Committee on Education when he says that the main components of education are standards, assessments, and accountability. I agree with that, and that is what this bill is all about. This bill contains measures that will require these poorly performing districts to address their problems, to be accountable for their problems, and most importantly provides them tools and resources to deal with those problems.

One of the main features of this bill is that it requires the district, in conjunction with the Department of Education, to arrive at an improvement plan for the district. With regard to those issues of standards, assessments, and accountability, this bill explicitly, explicitly provides that those are to be taken into consideration, and I point to page 15 of the bill where we begin to list the criteria that must be contained in the improvement plan. One of those things is that the empowerment committee must come up with and identify districtwide academic standards which meet or exceed the academic standards that we have promulgated at the State level, to come up with performance goals, benchmarks, and timetables to improve academic performance in the school district.

With regard to assessments, on page 16 of the bill, it requires that the committee come up with a system of assessments to measure the performance of school districts. And with regard to accountability, it requires that they come up with a system of academic accountability that provides for specific consequences for students.

The bill goes on and on, and I will not bore the Members with all the specific provisions of it, but it does provide for standards, it does provide for assessments, and it does provide for accountability. We have entitled this bill the Educational Empowerment Act. What a very appropriate title. It does empower.

It empowers school districts, it empowers parents, it empowers taxpayers to act not just for the benefit of themselves, but more importantly for the benefit of the children.

When I was elected to the Senate approximately 4 1/2 years ago, two things occurred. Most importantly, I had the opportunity to begin to represent the city of Harrisburg. And secondly, for some reason I was appointed vice chairman of the Senate Committee on Education. Those two events made me examine very closely the issues that are embodied in this bill, and that is educational issues and why in some school districts children are failing and why those districts are not performing adequately. The powers that are contained in this bill that will be given to school districts are exactly what the doctor ordered in terms of addressing the ills of Pennsylvania's underperforming school districts.

I would like to speak specifically to the Harrisburg School District, because we in this city have been blessed with a mayor who has been willing and is willing to come to grips with the problems of education in Harrisburg. And with his concurrence and with the concurrence of the House, and hopefully with the concurrence of the Senate, we will empower the city of Harrisburg to immediately begin the process of coming to grips with the educational crisis in that city.

And why is that so important? Well, first and foremost, it is important for the children of that district. If we do not do this today, as the Majority Leader has said, we will lose an entire generation of children. It is also important for the revitalization of the city itself. It is no secret that this city and other cities like it are losing population. People with children are leaving because they do not want their children to attend the public schools. Only the wealthy can stay behind, because they can afford to send their children to private schools, and the poor are forced to stay there because they have no choice.

The mayor of Harrisburg has, over the last 19 years, done a phenomenal job of helping to revitalize and reconstitute this city, but he has not been able to address the educational issues, because that has not been part of his jurisdiction. The taxes levied by the school district to the city of Harrisburg continue to go up. They continue to be a drain upon the taxpayers of the city of Harrisburg, they continue to cause economic disenfranchisement and flight from the city. And it is time that the issues of urban revitalization and educational revitalization be joined, and they are being joined with the Harrisburg piece in this legislation.

Mr. President, when I began my remarks I said that I was passionately in support of this bill. Since I came to the Senate and have represented the citizens of Harrisburg and also the citizens of Steelton-Highspire, which is also an empowerment district, I have encountered any number of parents, parents of children who are trapped in a system that is not responsive to their needs. We must address those needs. We must require these school districts across the Commonwealth to embark upon a plan of action that will result in a better educational product and better educational services. This is the last best hope for public education in these academically distressed districts. It is absolutely essential that the Senate concur in these amendments and send this bill to the Governor.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I rise in opposition to this legislation, and I appreciate very much the comments of my colleagues, certainly the interest of some of my colleagues to do what I certainly feel strongly about as well, which is to demand that those school districts that are not fulfilling the task of educating our children well, of assuring that they are reaching the kind of academic performance that we all demand and expect, I appreciate those comments and I take them sincerely as something that all of my colleagues are interested in. But I have to say I particularly appreciate the chairman of the Committee on Education being willing to stand up and say this is not the way we are going to get there. All four chairmen of the Committees on Education, the two Republicans and the two Democrats in the House and the Senate, have all opposed this legislation.

And you might say that is because we are hurt that we were not consulted and had no input into this legislation, that we could not do maybe what some Senators did in crafting a special little niche for our school districts. But in fact it is because we have spent a great deal of time and effort and interest in working together with each other and with our colleagues to do all that we can to make sure that all of our school districts and schools do what they should for our children, and that is make sure that they achieve well. And we have made a lot of progress in the last few years.

The previous speaker said that this legislation provides for standards and accountability. Well, I assume he does know that we already do have statewide academic standards, and that has been done without this legislation, and we are making some real progress in making assessments public and in moving forward in demanding better education for our children.

But it is certainly clear that this legislation, as was pointed out by the Majority Leader, is similar to legislation we saw a year ago, that is now being seen again just as that one was, hours, if that, before we have to vote on it. In fact, and like that legislation, it is not going to do what we need to do. But unlike one of the previous speakers who said this is bold action, that this is action that will in fact do what is best for our children, it in fact does not help those children in our most needy schools, in our most needy school districts. And I want to say that I feel very strongly that we have waited a year since the last legislation not to do what we ought to do in moving ahead to make sure that we demand from our failing schools and failing school districts that they perform, nor have we done what I have called for time and time again, and that is to help them get there. That is what is really missing here.

We do need quick action. We do need quick action in the classroom to improve student achievement, especially in those classrooms where too many children are not achieving academically. But how do we get there? Is this legislation how we are going to get there? This legislation, while I am mentioning it, ignores largely a bold, serious investment in those initiatives that we know work, that are proven, that are research-based.

Now, these will not be news to you. I know that you know about them. I certainly have mentioned them numerous times.

But I will mention them again because they are not news. And the fact that we ignore them and refuse, unlike other States that have taken truly bold action on early childhood education, for example, there are States that have said they want universal preschool for 4-year-olds because we know it makes a difference. In this State we have done little, in fact we have done nothing, about universal preschool. We have done nothing about universal kindergarten. We have done nothing about incentives for full-day kindergarten. We have done little to make sure that all of our children arrive at school healthy and ready to learn.

We have done nothing, nothing to make sure that our class size is reduced. Smaller classes, we know, the research has shown, makes a difference, particularly in K through 3, and we have done nothing to help our failing schools, let alone all of our schools, reach the kind of goal that they know they need, and that is to reduce class size. So instead of 30 children in kindergarten or first grade, we are talking about 15 or 20. We have done nothing to make that happen. And nothing in this legislation assures us that it will happen, even for our failing schools and our children who are failing to learn.

Nothing in this legislation guarantees and moves us ahead to assure that there are quality teachers in all of our schools. Some of those failing districts are the districts that have the hardest time attracting the best and brightest teachers and retaining them because they do not pay them enough, because they have the hardest students to teach. And we have done nothing in this legislation to help advance that goal. Nothing in this legislation makes sure that we move ahead on the state-of-the-art technology that again some of these failing schools, because they are in our poorest school districts—not by chance—there is nothing in this legislation that helps make that happen.

There is nothing in this legislation that helps us move forward on the goal of parental and community involvement. There is nothing in this legislation that helps assure that those schools are safe. Now, we have talked about some of these other issues in other places, but in our most seriously challenged schools, with our most difficult children to teach, we have not taken seriously what we know will work for these children. So we do know what it takes. It does take setting high expectations and high standards.

And again, we have heard one of the previous speakers say that he trusts the mayor of Harrisburg to be responsible for the school district here in Harrisburg. Well, just recently we made a significant change in the city of Philadelphia and placed responsibility with the mayor in the same way that this legislation does for Harrisburg. But instead of really giving him the tools to get there, we are instead threatening him with State takeover. And what if, in fact, and I would be curious to know, when the mayor of Harrisburg comes back in 3 years and says, I have gotten everything in order, I have gotten the fiscal house in order, I have done some of the things you said, I have set academic standards, I am holding schools accountable, I am doing assessments for every school, I am making them public, I am doing teacher training, I have even done full-day kindergarten, and you know what? I need some more help from Harrisburg.

Because you know what? That is what the mayor of the city of Philadelphia and the school superintendent in the city of Philadelphia is saying. We have done those things, and what we are saying is we need other kind of help from Harrisburg, and instead we are saying, nope, you have 3 more years to see if you can prove your stuff. And if you continue to fail, we will take you over. There will be no other help from that. Oh, I am sorry, there will be \$75 per student per year. Seventy-five dollars. Well, I hope it may go to buying new textbooks. That would be good. It might help in some ways, but it nowhere meets the challenge, nowhere meets the challenge for the children whom we are trying to address.

So we are looking at what else we know it takes other than assessments and accountability. It takes the cooperation and true leadership from our community leaders, from our school leaders, and from our State leaders. And I would say this legislation is not about leadership. It is about who is in charge, and there is a difference. Real leadership, particularly on education, is about getting the job done. And this is not about getting the job done. This is about who has the power and who is in charge. It is not even really about the classroom and getting resources to the classroom. It is about who orders the pens and pencils. And that may not get us, there is nothing that gets us to academic achievement for our failing schools and for those children.

And what we also know makes a difference is professional development, and we have done something about that. Certainly, Philadelphia has probably led the charge on that one, but we have taken some action in the General Assembly on that. But there are many school districts that say they do not have the resources to do all that they can to move ahead on the kind of professional development they know they need to do with their teachers and their principals and their administration.

And last, we know that it means money. I mean, it would be nice if it did not. It would make it easier on all of us if the school districts, these 11 school districts, would say, you know, if we just reshuffled everything, we would have plenty of money. But that is not what they are saying to us.

There is an article in the clips today from The York Daily Record, and it talks about the school districts' wish list. It says that York City, which is on this list, has a very long wish list for computers and books and learning aids and smaller class size, and incentive programs to attract new teachers, and all-day kindergarten and preschool and community schools that promote social and health services in the city, and stronger grade-by-grade assessments. What in this legislation really helps them get there? Not enough. It talks much more about management than it does about the resources they need. So even for those schools that have improvement plans, those school districts that have improvement plans, and many of them do, and have set goals just as was talked about is going to be required in this legislation, and said here is our improvement plan, here is how we are going to get there, here is how we want to get there, but we do not have the resources to get there.

This legislation sets us back. It says we are going to spend \$20 million, and in 3 to 5 years we will make another assessment. But what if that is not enough money to do it? Our Majority Leader said that we cannot wait another year. We cannot

wait another 2 years. Well, I agree with him. What if this is not enough money to do it? These school districts have told us already it is not enough. And while you may not say it is all about money, and I completely agree, it is also in part about money and about resources. We have seen property taxes rise, and again, the previous speaker said that we cannot afford any more property taxes in our local areas to support our schools. We are driving people from the city of Harrisburg because the schools are not good enough and the taxes are rising. Well, that is true in Philadelphia and across this Commonwealth as well. And what in this legislation seriously addresses that issue?

The State simply has not stepped up to the plate to be bold at all. This is not bold. This is token. This is a gesture when it comes to money. I am sorry about that because \$20 million sounds like a lot of money to most of our constituents, but we are sitting on a billion-dollar surplus and the Governor has decided it is better not to spend that money, even on critical needs like our schools. So we do not get these things from the Governor's proposal, from Senator Salvatore's proposal -- this legislation is his legislation, so I certainly want to give him attention and credit on that. But the proposal instead calls for fundamental changes in Pennsylvania's public education system not only for these schools but for all 501 school districts.

And this is legislation that was put in writing just a few weeks ago. There has not been one Committee on Education meeting, there has not been one hearing on this legislation. We have not had a chance to hear from the school districts across the Commonwealth about how they feel about this. We have not had a chance to make changes. A previous speaker said he would have liked to have had the opportunity to modify it, to make it better. That is what the legislative process is about. It is about meeting the needs of all of our constituents. But there was not a chance to craft a better bill. We were just confronted with a bill that we had to vote on, up or down.

Mr. President, I have an amendment here. I would like to call for a suspension of the rules to offer an amendment, but I know that is not a useful process this evening, that that is not going to happen. I will not have the chance to offer a counterproposal that I think would be much more effective. It is really not the way to do it. We ought to do it by having a discussion and see what in my proposal or in other people's ideas, what actually would make a difference. But there is no opportunity for that and there should be, and it discredits all of us and all of our constituents.

And what does this legislation really do? It mostly talks about management changes, far removed from children and classrooms. It really is about who is in charge. And what it has an opportunity to do that is certainly a great threat to those school districts that are trying so hard to improve the quality of the schools is to create divisiveness and chaos among the adults in charge, the school board members, who may not like the improvement plan, those who are on the local improvement committee, those who are appointed by the Secretary of Education himself. There could be months of debate about these improvement plans. They could be very divisive and chaotic in systems that require some stability and a focus on their future.

It also speaks to unproven approaches to running schools. There is nothing in the literature, nothing in the research, that tells us that privatization improves outcomes for children. Look at Wilkinsburg. I asked somebody about it today, and they said, well, you know, they do not think the students are any worse off in Wilkinsburg with privatized management. No worse off? That is what we are looking at? That is what empowering our school districts is all about? No worse off 3 to 5 years from now, when we all agree there is no more time to waste? That is not acceptable. It is not acceptable to me, and it should not be acceptable to any of us.

Look at the Chester-Upland School District that has been run by the State. It was taken over because it was fiscally distressed, financially distressed. Again, I asked someone about it, and they said, well, they do not really think the goal there was to improve outcomes for children, and again, maybe the children are not any worse off than they were, but the State has run the Chester-Upland School District for 4 years, and it is not good enough that the children are maybe not any worse off. So it is unproven that these strategies that are being touted as bold and exciting and new initiatives are in fact unproven, and at worst, will delay us 3 to 5 years from really doing the work that we have to do.

For many of us, the legislation violates Pennsylvania's tradition of local control over education. I hear many, more from the other side of the aisle than from our side, but our side as well, saying our school boards have a responsibility for curriculum, have a responsibility for including the community. We have actually asked them to do even more. We have required them to do strategic planning in the communities, to set forward new plans and goals for the next 5 years. They have done that, each and every one of them has done that, and now we are going to say that does not matter? That does not count? All that work is discredited? It is exactly what we cannot be doing, is changing our minds every few years about what has to happen in our school districts and for our children, and it again delays progress.

What does this legislation do? It does something that may well be unconstitutional. It is certainly unconscionable. It delegates a degree of power to someone who is not elected to office. It takes away from us and gives to the Secretary of Education, who is not elected in this State, a power to overturn the laws of elected representatives of this Commonwealth. One by one, it will be solely his decision to waive mandates for every school district in this Commonwealth. We have just relinquished to him and the future Secretaries of Education a great deal of power that should rest only with us.

And it lacks a willingness to invest State funds in a way and at a level that actually will make a difference in our children's lives, and to me that is the most misleading part of this legislation. It sets out the notion that we have done something grand for the children we are failing. It misleads them, and it misleads their parents into believing that there is going to be great hope, as was just mentioned, that this legislation will bring great changes, in the short run, to them and their children. It is possible it will not do any of that.

We are sometimes criticized: so what do we support? What would we want to see? Well, I can tell you that for most of us,

most of the Senate Democrats, what we support and what we want and what we would rather be voting on tonight is bold action to improve quality and improve public education for all of our children in this Commonwealth, certainly for those 11 districts that have been identified for the Governor, most of them, not all of them, represented by Democrats. What we are for is accountability in State oversight to ensure that taxpayer funds are well spent and that our children achieve at the highest level. We support that, we are for that, and we have said so time and again.

And what we are for is for State and local leaders to work together on behalf of our children. And as I suggest, it would take real leadership to do that. It would take setting aside who is in charge and saying, let us make this happen together. And it lacks, again, the most serious: a real investment in public education so that our children, regardless of where they live in Pennsylvania, get a world-class education that prepares them for the economy of the 21st century. This legislation does not do that.

So let me conclude by saying that the Governor's proposal, Senator Salvatore's proposal, fails us on each of these points. It lacks boldness where it matters, it lacks an investment that would truly make a difference in our children's lives. It is more about the adults in charge than about the children in the classroom. It contributes to the ongoing failure in some of those schools, but more importantly, the ongoing failure of this legislature to invest in educating all of our children.

There is no more time to waste. I agree on that. I have been demanding action for many, many months and years. This legislation puts it off yet again for 2, 3, maybe 5 years. It puts off our taking responsibility to educate our children and educate them well. We have to demand excellence, and this legislation will fail to get us there. And I feel apologetic to the citizens of the Commonwealth that this is what the General Assembly considers the right and bold way to go. I am sorry that we are not doing more to make sure that we are doing right by our children.

Mr. President, I hope, and though it is unlikely, I hope that my colleagues put aside this legislation, refer it back to the Committee on Education, put it on the table, and sit down with us and take seriously the need to educate all of our children well, particularly those who are failing and the school districts that are failing them, and really make it happen.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President. I know the hour is late and most of us are heading home after this Session, so I will try to be brief. I did want to say a few words, though, this evening. In my short term in the Senate, just a little over a year and a half now, this is probably one of the tougher decisions I have had to make on a piece of legislation. One of the reasons why it is tough is because some of the opponents to this legislation are people for whom I have a great deal of respect, including the chairman of the Committee on Education, who spent many years working on education issues, and the fact that he opposes it does cause me some concern. The fact that an organization for which I have a great deal of respect, the Pennsylvania State

Education Association, has concerns about this bill also gives me concern about what I want to do here today.

But I also have a great deal of respect for the proponents of this bill, notwithstanding the most important ones, the Senators from the areas on which this bill would have a great deal of effect, the Senators from Dauphin County, Lancaster County, York County, and also some of the Senators from Philadelphia and Pittsburgh, who are calling out that this is a bill that they feel they need for their school districts. And so when you are hearing from both sides for which you have such great respect, it is a tough decision to make.

This bill has so many facets to it, but let me talk about one that really has put me over the edge on this legislation. Back in 1998, when I first decided to seek public office, one of the things I chose to do was to go around my senatorial district, which is in the central part of the State, and meet with all the superintendents and many of the school board members in my district to talk to them about education and some of the issues they feel are important to try to improve their school districts, because I wanted to be not only a candidate but also a Senator, a public official who was very concerned about education. And one of the things that they said over and over again to me, in every meeting, was that they were frustrated with the amount of restraints being put on them by Federal and State mandates. This was something that was stifling their local control, stifling their ingenuity and creativity, and once you got by many of these mandates and added to those the administration and teachers' salaries and benefits, it really left very little room for local creativity. It really, in many cases, takes up over 90 percent of the budget. There is very little room for them to develop local programming for their school districts.

So after hearing this over and over again, I decided to do a little research of my own, and I did a little checking with the Department of Education to see how many mandates we actually put on our local school districts, and I came up with this document, over 500 pages, 500 pages of just State mandates that we put on our local schools. Many of them are very important mandates dealing with public safety and the welfare for our students, but some of them maybe some would consider a little trivial, dealing with the amount of shade trees that we have in front of our school buildings.

And so I thought, let us do a little more research and find out if there is any legislation dealing with this, and I came across a piece of legislation that was introduced by Senator Piccola to begin to try to give our local schools a little more control by getting some relief from some of these mandates if the school district felt that it did not necessarily pertain to the betterment of education in their school district. So I took up this cause and I made it one of the major platforms of my campaign back in 1998, to get more parental and local control to our school districts backs in central Pennsylvania by allowing them to apply for some relief. As I said, it became one of the centerpieces of my campaign.

After I was elected, Senator Piccola was gracious enough then to allow me to introduce the mandate relief bill, which was Senate Bill No. 545, and we began to take up the cause here in Harrisburg to try again to bring some relief to our local schools.

And I heard a lot of comments in the debate over in the House, which I listened to very carefully, and also here today about how we are abdicating our responsibilities, we are giving the power to a nonelected official. In my opinion, I do not believe that is true. First of all, they are public officials, they are called school board members. They are elected, and these school board members will have to take a look at what mandates they feel do not pertain to their school districts for the betterment of the education of their school districts. They are going to have to sunshine that vote, they are going to have to vote it in a very public way so parents can be involved in the process back at the local level, and once they do that, at that point then it comes to the Secretary of Education to make sure they have not gone too far and to make sure that this mandate relief will better the education environment at their local level.

And so this is a very public way of going about it, and let us be honest, when you have a document of this size, surely not every one of these mandates pertains to every school district. I mean, I think no one can make that argument. And so let us let the school districts go through these and decide which ones do not pertain to the betterment of education in their school districts. We were very specific in this bill. It is a little bit different than mine, and I think in some ways better, that they went through very specifically in the School Code that takes away mandates they cannot get relief from dealing with public safety, health and welfare, civil rights. They will not be able to take away from those. So I saw some of the propaganda put out that we could close down schools, and things of that nature. Well, that is just not going to happen, and I think it is important that we know that.

Last month I was fortunate enough to be the host of a guest from the State College School District, Teri Lindner, who is a special education teacher, and she was recently named the Teacher of the Year by Disney Corporation, which was a great honor for her and for us in central Pennsylvania to have that type of teacher. And she came here and pleaded with us to be able to help them develop local programming for their school districts, because the programming she put forth for special education in the State College School District was something that she came up with on her own. It was not a bureaucrat in Harrisburg, or a bureaucrat in Washington, it was something she came up with on her own, but that type of ingenuity is being more and more stifled because of the amount of mandates we put on our school districts.

So as I said in the beginning of my remarks, this is a tough issue. Are there some things about this piece of legislation I do not care for? Absolutely. Are there some things about it I like a great deal? Absolutely. And so it reminds me of the days in my prior life. Before I came here I used to work for another public official, United States Senator Rick Santorum, and when we had tough issues we would sit around and the staff, of which I was a member, would go around and try to hash out the pros and cons and political ramifications, one way or the other. He would always end the conversation with, what is the right thing to do? Today, I believe the right thing to do is to vote "yes" on this bill to give the school districts, not only in my senatorial district but the other 501, to begin to get parents more involved in the edu-

cation in their school districts. I am going to support this today, and I urge my colleagues to do the same.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Murphy.

Senator MURPHY. Mr. President, will the gentleman from Dauphin, Senator Piccola, be willing to stand for brief interrogation on an issue?

The PRESIDENT. Senator Piccola, will you stand for interrogation?

Senator PICCOLA. Yes, Mr. President.

Senator MURPHY. Mr. President, one question on this that has come from some constituents has to do not with educators, educational professionals in the schools, but those who may be noneducators, such as bus drivers, janitors, food service personnel, and others who may be involved in a school district. And a question arose with regard to if a school district did continue to consistently perform poorly, would their jobs, their contracts, be in jeopardy? Could the gentleman comment on his understanding of that issue?

Senator PICCOLA. Mr. President, this bill has been touted as interfering with contracts and abrogating contracts that have been entered into either by professional employees or nonprofessional employees, and nothing could be further from the truth. In fact, if one looks at page 27 of the bill, beginning on line 5, a section dealing explicitly with collective bargaining agreements, that section says, "Nothing contained in this article shall supersede or preempt any provisions of a collective bargaining agreement between a school district and an employe organization in effect on the effective date of this article."

Even if we wanted to affect contracts, Mr. President, and even if we did not have this section in this bill, the Constitution of the Commonwealth and the Constitution of the United States would preclude us from doing so.

Senator MURPHY. Mr. President, another question then. Am I to understand that this is basically maintaining the way things are now with the school district, and it is up to the local school board to determine at the time when a contract is running its course that they are open to renegotiate contracts, continue those, and move forward? In essence, this really does not change at all the status quo of our current laws and contracts?

Senator PICCOLA. Mr. President, that is correct. The method by which collective bargaining agreements are entered into, negotiated, would remain unchanged, and the school board would continue to operate in the fashion that it now operates.

Senator MURPHY. Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator Conti.

Senator CONTI. Mr. President, I guess it was close to a year ago today that we debated educational reform. The evening of that debate was the evening of the graduation of the flower of my flock, my daughter, and I rushed back after that event to participate in that debate. And it is interesting to note that just last Friday the Bucks County legislative delegation met with our retired teachers at our annual breakfast. Mr. President, as you well remember, there is not a more delightful group whom we have the chance to encounter in our legislative duties than these

wonderful people, the retired teachers in our community, many of whom taught us.

We talked about many things that morning. We talked about tax reform, 30-and-out, health care benefits, and we even touched on school choice and vouchers. We spent most of the time dwelling on what I think are the two most compelling issues confronting Pennsylvania, and they are equity in education funding and community revitalization.

I think most of us agreed that healthy, vibrant communities have schools that exhibit excellent academic performance. It is that simple. Much of Pennsylvania is fortunate to have neighborhoods like this with excellent schools and fine basic and secondary educational institutions. And I look forward to working with these institutions in the future and assisting them to provide even better educational programs for the students of the Commonwealth in the future, programs that are of today, with all the technology and excitement that brings. I think the whole area of education is going to change greatly in the coming years.

At the conclusion of the breakfast, the retired teachers offered an interesting perspective. They were so pleased that educational reform issues were on the front burner here in Harrisburg. That is not to say they were supportive of everything we are talking about here, but they felt that there was a heightened awareness of the importance of educational issues in Pennsylvania, and particularly they were aware that it is time to act now to help the students in Pennsylvania who are not performing academically in the manner that we wish they would.

This week, for the last 72 hours, we have had some interesting educational debates. I think when we all came to Harrisburg this week we did not anticipate being here at this late hour on a Wednesday night debating this issue. It has been stimulating. It has been interesting. It has even been inspiring, debating the merits of this school empowerment proposal. And in every discussion I have had with my colleagues in the General Assembly, with the administration, and with the various interest groups, I think we all agree that the time to act is now. We cannot wait much longer to help the students of Pennsylvania who need to improve their academic performance.

I would have preferred to have handled this in a different way. We heard an awful lot of debate about that in the other Chamber throughout the afternoon. Hearings, debate, compromise, and hopefully bipartisan support are always preferable to unamendable concurrence vehicles like the one before us today. And I reflect back on the wonderful Session we had in December when we accomplished so much here, helping the farmers, doing land use reform, and doing some business issues, and we did it bipartisanship. I think that is the way Pennsylvania wants the General Assembly to operate.

A reflection over the last 5 or 6 years would show that probably most of the major legislative proposals and accomplishments have been through this manner, and that is unfortunate, but that is the hand we have been dealt. I echo the previous speakers who have great respect for the General Assembly, for the institution of the General Assembly, and I have great respect for the leaders of all four Caucuses in this building. They are outstanding people who I know deep in their hearts wish that we could proceed in that manner through the committee system. Working

within the committee system in a bicameral fashion between the two Chambers is really what we all hope for. Perhaps we here in the Senate, with the elected Membership that we have, should reflect on improving our administration of proposed legislation through this committee setup. It is a different story in the House. It seems like just yesterday I was there, and I understand the electoral Membership of the House, and it is the hand, as I said, that they have been dealt.

Senate Bill No. 652, in its current form, is an amalgamation of very proper, needed, and in many instances enhanced educational funding. It contains the necessary mandate relief that the previous speaker spoke about who has worked so hard to lower the tax burdens for the local property tax that is being assessed within our communities. And yes, it contains the Governor's school empowerment program. This program is tough legislation, some would say Draconian in nature. And this proposal will place a lot of confidence and trust in the Secretary of Education and the Pennsylvania Department of Education. For the educational welfare of the students in need, I hope this proposal is meaningful. As I said earlier, the proposal is not the holistic approach I prefer. A program marrying community revitalization with educational assistance and the appropriate health and welfare measures would be my proposal. That is what we should be working on in this body.

My friends and colleagues, I think we missed the obvious, that students in school buildings in sustaining communities perform well. It is that simple. Restoration or reconstitution, a most interesting term, reconstitution of school buildings or districts in troubled neighborhoods is a questionable path of action. Many of you have said to me this week, Joe, you should know better than anyone the importance of a good education, because I am blessed to represent nine of the finest school districts in the Commonwealth, if not the nation, and people are moving in huge numbers into my district. And I respond, yes, that is true, but they are moving into excellent housing stock, they are moving into wonderful communities. The parking lots of the shopping colonnades in my district are full, there is a range of housing, there are employment opportunities.

I do not think that situation exists in the areas where we have students who have trouble with academic performance. I am blessed with the communities in my district, and I think we should be working to try to enhance the communities throughout this Commonwealth, because if we enhance the communities throughout the Commonwealth, the very schools that may be underperforming today and the school districts that are having problems will rise and will provide wonderful education. That is not to say that in communities such as mine the work is all done. We look forward to working together to continue the improvement of education of the students.

Mr. President, the hour is late and I have spoken much more than I usually do, but as previous speakers particularly on this side of the room have alluded to, there is an awful lot of good in this bill, including the necessary educational funding provisions, enhanced in many ways, and the mandate relief that we all worked so hard for. So I will be supportive of this bill. We all agree, all of us agree the time to act is now. But it is with somewhat of a heavy heart that I do vote for this bill today. And I

guess in closing, I and the retired teachers in Bucks County pray that the well-intended, desired results of this program really help the students in academic need throughout this Commonwealth.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Waugh.

Senator WAUGH. Mr. President, I rise this evening to support Senate Bill No. 652, as amended, primarily because I believe it is a step in the right direction. I listened to the House debate today and I have listened to our debate here. Several times I heard the comment that this is not a silver bullet; this is not enough, is something we have heard quite often. But I believe we need to put the other side to that and talk a little bit about how this is a step in the right direction, and, again, that is the primary reason I am supporting this. But I would like to name three specific reasons why I believe it is an appropriate step.

Mandate relief was mentioned by several previous speakers. I have been in public service at least at the State level here and involved in State education decisions for going on 8 years now, and I have been to hundreds of meetings with public educators and administrators and staff folks, and have probably received thousands of letters and phone calls from the same, not unlike any of the other Members of this Senate, I am sure. And I think all of us would have to agree that probably one of the most often heard criticisms and cries for relief is from mandates. If you would not give us those nasty mandates and we would not have to comply, we would not have to spend so much of our taxpayers' dollars. We would not need to always be asking for more.

This bill contains a provision that gives all school districts the opportunity to request relief from State mandates. It is that simple. Does it repeal mandates? No. Should we repeal mandates? Maybe some. Can we effectively repeal mandates here at the State level and do it in a way that it provides relief effectively for all 501 school districts without a negative impact on one district or another? I do not think we can, and I think that is one of the things that we have struggled with over the years when we talk about mandate relief. It is very difficult for us to do something here that is sort of *carte blanche*, the silver bullet, the approach that is the cure-all for all districts.

So, I believe what is contained in this bill is a step in the right direction, again, and probably the most appropriate way. We are giving the districts the opportunity to work locally with a team to identify the mandates that affect them in the worst way, the most costly way, the most negative way, and giving them the opportunity to request relief.

Point number two is options, or toolboxes, as some have called it, contained in this empowerment package. We are not telling school districts that they have to do certain things to come into compliance with their plan to improve. We are saying to the 11 school districts named, at least at this point, that we are giving you some opportunities, we are giving you a toolbox, we are giving you options to use to try to improve your program. Once again, not necessarily a State governance, not necessarily a mandate, but giving local districts the opportunity.

Will there be State officials involved? Will there be experts from the Department of Education involved? Yes, under this plan there will be. But I can tell you that the superintendent of the school district that I represent that is on this list, York City, and the president of that school board, the three of us had a meeting before this discussion took place today. That was one of the things they were least concerned about with this bill. In fact, they thought it would be good to have experts, provided they are experts and provided they come to York City with the attitude of wanting to help and wanting to encourage and be a part of the local team in implementing the plan. I do not believe that is something to be afraid of. In fact, as I said, our school believes that it may actually be good.

The third point I would like to make is about funding. You heard a previous speaker actually mention the needs of York City, and it is true that York City is actually a bit more progressive maybe than some of the other districts on the list of 11. They have been working with an improvement plan already. Their new board that was put in place just a couple of months ago had this idea as part of their campaign platform and they have worked diligently with community members, they put together action teams, they have done a lot of what is contained here. But what is it that they need most? Funding. What is it that they need to make their plan happen? Funding. Is there enough in this proposal? Is there enough in the printout that we have showing how much the city of York will receive? Probably not, quite frankly, but it is a step in the right direction.

I have heard over and over and over again today, both in the House and here in the Senate, people saying, well, the reason I am not supporting this is because it is not enough. How much is enough? And for me, is it not better for our districts, at least in my mind, to take a step in the right direction and work toward more if it is needed? Because I am not sure for some people that there will ever be enough, quite frankly.

So, I think it is a good proposal. I think the mandate relief is fine. I think the options we provide will give our districts the opportunities to work locally and use the funding that is supplied, and to be honest with you, I look forward to working with them to maybe try to get a little more funding in the future if they find that is actually necessary.

Finally, in conclusion, I would like to just jump back to a little bit of what I already said here, because I think it is important to give some defense to those 11 districts that are listed. The last couple of days there has been a lot of discussion - the media, the people who have been here lobbying us, either in support or in opposition to this proposal, Members of both sides of the aisle and various folks - and I think unfortunately there have been some very negative connotations, very negative images created by the fact that there are 11 school districts listed as being in need of assistance, being in need of this program.

Now, I cannot speak for the other 10, but I can speak for the one that I represent, York City. And I have to tell you that being on this list does not mean that the York City School District is lying around waiting for help. As I said earlier, they have been working for months putting together a community-based interactive plan that pulls together the strengths of the city of York, the people in it, the students, the staff, the team, the schools of

the city of York. And all that they are looking for is a little bit of encouragement, a little bit of assistance, empowerment under this act, to help them along the way.

I believe that this evening we have an opportunity to help the folks on this list. I ask for your support and I encourage you to support Senate Bill No. 652.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Wagner.

Senator WAGNER. Mr. President, I rise also to talk about this legislation, Senate Bill No. 652. There has been extensive debate so far. I am sure that will continue, and certainly should, for a piece of legislation of this magnitude. This is the second time we have voted on Senate Bill No. 652. As all of us know, this piece of legislation left this Senate in a far different form than it is in now, and that is one of the reasons why many of us object to the bill with the amendments that were made in the House of Representatives earlier today. The original piece of legislation, Senate Bill No. 652, has many good things, as I believe Senator Loeper, in leading the discussion, talked about, things such as special education funding increases, other items such as increased reimbursement to community colleges, and I could go on and on. And quite frankly, I support each and every one of those items in the original Senate Bill No. 652.

The problem with Senate Bill No. 652, Mr. President, to be as concise as I can be about it, is the amendment that was made earlier today in the House of Representatives was actually from a previous Senate Bill, Senate Bill No. 1433, sponsored by Senator Salvatore. That amendment is an 18- or 20-page amendment that made a 30-page piece of legislation a 50-page piece of legislation that is now inserted into Senate Bill No. 652. That amendment is called the Educational Empowerment Act, and I want to speak to that to some degree in a moment.

But to talk about the process, again, on some bills as they move through this building, I think we all have to be very concerned. I say that in particular about this bill because we have heard a lot about school districts, the Secretary of Education, the wording in this legislation. I could go on and on, but the legislation is truly about kids, about children within the educational system in 11 school districts that are really identified, but it could be any school district in Pennsylvania that would fall under this so-called Educational Empowerment Act. So, it is important that in this discussion we keep children and kids at the forefront of the discussion, because it relates to our public educational system.

The reason why the process is so important here is that the children and what impacts the children needs a proper public discussion. And basically, when we are talking about this so-called Educational Empowerment Act, it has not had a proper public discussion. Mr. President, I have to tell you, I have been here almost 6 years, and I cannot recall a single piece of legislation where the chairmen of the committees, the Majority chairs and the Minority chairs of the Committees on Education in the House and in the Senate, have together opposed a piece of major legislation that is going to pass. That, in and of itself, at least in my tenure, is something extremely significant that has happened in this building.



Now, I say that for a very just cause, and I will begin by saying that, generally speaking, the chairs of the committees are the most knowledgeable people as it relates to that particular committee. And I think the leaders, the Republican Leader and the Democratic Leader in the Senate, and the same in the House, generally speaking, make good, solid choices to appoint people to head committees. I believe that has occurred here in the past with the Committee on Education, and if that is the case, which I am stating that it is the case, and I do not think anyone can rebut what I am saying, then we should be looking at those four people in terms of what they are doing with this particular piece of legislation. I think we have heard them speak, and I am sure we are going to hear them speak again tonight in the Senate, and their comments are very forward, very thoughtful, very thorough about how to change the educational process.

They are not advocates of the so-called Educational Empowerment Act. I think that says something extremely significant. Well, why is the legislation moving if they are opposed to it? Obviously, it is not a piece of legislation that is being pushed through the process by the people who are part of the process. It is a piece of legislation being pushed by the administration rather than the General Assembly. And that concerns me, particularly when we are talking about an issue that relates totally to the children, to the kids of Pennsylvania. And I mean that very sincerely, because I believe we as elected officials are as close to the children and as close to the public, if not closer, to understand these issues than is the administration. I mean, we are out there each and every day. School superintendents call me, parents call me. My wife is on the Parent-Teacher Organization of the local public school. I know the issues because she tells me the issues. I think we are in touch with educational issues. I think we are very close to them. I think we visit schools within our district.

So the whole process of this legislation concerns me because of how it was moved. But we are talking about it now. I am not so certain that we can change votes here on the legislation, but the simple fact that the chairs of the Committee on Education all oppose the legislation is a very significant fact. I would also state, and it has been stated here, that the legislation has bypassed all ordinary processes in the General Assembly.

And just by coincidence, Mr. President, I was sitting at my desk today during the lull periods of the Senate Session, and as all of you know, school students are brought into the Chamber--not into the Chamber per se on the floor, but up in the gallery--and I could hear the teacher talking to the children, explaining how legislation moves through the General Assembly and how it begins in the committee process, how some pieces of legislation deserve public hearings, how it then goes on to the floor for a full discussion, it is read several times, it takes days, sometimes weeks, sometimes months, goes to the other chamber, then they go through the similar process there. Well, it is odd that this piece of legislation that impacts the very children who were here today is not going through that process.

So again, when it comes to education, we, I think, should be setting an example, particularly for the young people in our school system, on how education issues should move through

the process with appropriate public input. This has not. It is very obvious it has not. It deserves to have public input, but it has not received any public input.

I have some other observations, Mr. President, and some concerns about this legislation, and some of my colleagues have spoken and have said that the legislation impacts specifically school districts, one of the 11 is within their senatorial districts. The same is true with me, Mr. President. One of the 11, the Sto-Rox School District, is in my senatorial district. It is a school district that I know quite well, and I know it has worked very hard in the last 5 years to move in the right direction and provide a better education for the children within that school district. I am particularly offended because I know the Secretary of Education made a comment approximately a year ago that that school district was academically bankrupt, when in fact I know it is not academically bankrupt and it has made great strides in public education.

There are some very notable, accomplished people who have graduated from the Sto-Rox School District. I could state a whole list of them to the people in this General Assembly. You probably do not want to hear it, but one person was a candidate for President of the United States this past year, Congressman Kasich, a Congressman from Ohio, who is a graduate of the Sto-Rox School District. As a matter of fact, he was invited to be the commencement speaker at the graduation ceremony last June, a person who I think has achieved much in his career, certainly in public life. But so have many other people. So I would not be so quick to judge Sto-Rox School District and that they are not moving in the right direction, because they are moving in the right direction. And I can prove it by taking anyone to that district and showing them what they have accomplished in the last 5 years. So to some degree, and I will state furthermore that they have had no input into this legislation, and I would suspect that very few of the 11 school districts have had any input into this legislation.

Again, is the public process working for the kids? I think in this situation it is not working for the kids, so I am concerned. I am concerned that the legislation is not going to achieve what everyone is saying it will achieve, because it has not had the input from the ground up that any and all legislation should have. As a matter of fact, Mr. President, I think the opposite has happened. I think this legislation, the Educational Empowerment Act, is not empowerment. We are not empowering local districts with this legislation. When I think of the word "empowerment," I think of giving power to the people, and precisely the opposite is occurring with the Educational Empowerment Act. We are giving power to big government. We are giving power to State government. We are giving power to the Secretary of Education.

So this is not empowerment of education, this is disempowerment of education and giving power to State government. That concerns me. It concerns me that even the title of the legislation is wrong, because as I look at the legislation, as I read the legislation, I see example after example that shows that we are truly giving greater power to the Secretary of Education to make decisions, rather than the people within the school districts, the parents of the children.

For instance, on page 21, Section 1706-B: "Powers and Duties of Board of Control.--(A) Except for the power to levy taxes," something I want to talk about, "the board of control may exercise all other powers and duties conferred by law on the board of school directors...the board of control shall have the power to close a district school." The board of control is appointed by the Secretary of Education. We all know that.

The next sentence, "(B) The department shall provide a board of control..." to oversee these school districts. I mean, there is statement after statement here of how we are giving more power to State government to oversee and to, in essence, run a school district. As you noticed in that one statement, it said except for taxes. And I know why that was put in there, because we all know that school districts are funded primarily by local taxes; not by State taxes, by local taxes. And I believe it was Senator Rhoades, when he first spoke, who talked about some constitutional concerns here, where we as a government, as a State government, will have control over a local school district, but the local people, through local taxes, are the primary funding agency for the operation of the system.

There is a problem there. I think there is a serious problem there, and if people are paying taxes to an entity, I think they should have control over that entity and not some other layer of government. I do not know what happened to government of the people, by the people, and for the people, but I think it relates in this situation. And the Educational Empowerment Act is not giving power to them, it is taking power away from them and giving it to us, to State government. Not to us the General Assembly, but to the Secretary of Education.

So, Mr. President, these are observations of mine in looking at all this and trying to analyze it, and if there is anyone here who disagrees with me, I am more than happy to debate them with regard to it. As a matter of fact, I think that is what should have occurred if this legislation would have gone through the right process.

What concerns me most, though, about the legislation is truly its impact on children and whether or not it positively impacts children. It does nothing. It delays the process of doing something, or maybe it makes modest improvements. Is this being done just as window dressing or is it being done for substantial reasons to improve the education of children?

Mr. President, if we want to be frank and honest about the whole issue of education, we should look to the educators, the scholars, the people who have put together studies of how to improve public education and education in general. And if we did that, we would begin to address some core issues in education that are not being addressed. Probably the primary item is education or preparing children for the educational process. We all know when we look at these 11 school districts that the problem is greater in those communities than just education. There is poverty in every one of those 11 communities, to a greater degree, generally speaking, than other communities throughout the Commonwealth of Pennsylvania. It is by no coincidence that these 11 school districts have some of the highest poverty levels in Pennsylvania, and as a result of that, these children do not have the opportunities that other school districts have.

It is not just a money situation, though. It is because within these communities, the children do not have available to them the same opportunities to prepare them for education, so if we want to positively impact education, I think we have to begin to start talking about early childhood education and preparing children for school. I said that, Mr. President, on the floor before when it comes to education, and I feel compelled to talk about it today. If we as a General Assembly, if the Governor of this Commonwealth wants to have a positive, long-term systematic impact on education, we have to talk about early childhood education, and I am talking about programs such as Head Start. Head Start is a Federal program, but I am sure all of you know that we in the General Assembly do not fund with State taxpayer dollars any Head Start programs in Pennsylvania. We are one of the few States that puts our dollars forward to help prepare children to enter the educational system. And it is about time, if we want to positively impact the process, that we begin to do that. Rather than taking this \$20 million or \$25 million for the Educational "Disempowerment" Act, we should be taking that money and putting it into Head Start programs, so that those children have the opportunity when they enter kindergarten to learn, so that they are not behind when they walk in the door the first day in comparison with other children. And educators will tell you across the board that that is the primary issue related to education.

I was sitting at the dinner table in my home just last week, my daughter is in kindergarten in the public school. Well, she counted to 10 in French. I cannot count to 2 in French. That is because she has had an opportunity in kindergarten to learn certain things. So I am just not talking about Head Start programs and early childhood education programs. Let us talk about kindergarten programs, and I know Senator Schwartz has a piece of legislation in regard to this. We as a Commonwealth do not require kindergarten in our educational system. Now many schools have it, many schools have full-day kindergarten, many schools have only half-day kindergarten, but you know what? You are not required to go to kindergarten in Pennsylvania. If we want to positively impact the educational process for children, let us amend this legislation and require full-day kindergarten and fund it, as we should in this Commonwealth. We will have a positive impact on the children, because when children who do not go to kindergarten and do not have early childhood education enter first grade, they are already behind, and we know that. And again, educators will tell you that across the board.

You want to help children develop educationally? Start as early as you can, give them as much exposure as you can, get them in preschool programs, make sure they go to kindergarten, so when that child walks in the door, they are not intimidated by the process, that they actually seek out education. And when they come out of kindergarten, they already have enough education to almost have been through first grade.

Let us get serious about education. Let us talk about some real issues. We have talked about class size. It is another issue, Mr. President, that has been talked about time and time again, that smaller class size, particularly in kindergarten through third grade, will very positively impact a young mind, because

they have more attention from the teacher within that class. It does not matter what school district. It does not have to be in Pennsylvania, it could be anywhere. If you give children more special attention, their mind, at a very young age, has a greater ability to learn. These are the issues related to education that I believe are extremely important issues.

We dug out a report, a final report, on the "Legislative Commission on Restructuring Pennsylvania's Urban Schools," completed in December 1997, and it really gets to the heart and soul of these issues. (*Reading:*)

Section I: Getting Children Ready To Learn

Recommendation #1: That the Commonwealth should assist in the development of preschool programs for 4-year olds, and full-day kindergarten programs for 5-year olds in...school districts. --**Still an issue that we do not want to address.**

Recommendation #2: Urban school districts should limit class size in Kindergarten through Grade Three to 20 students.

This was a document prepared and offered to all of us in the General Assembly.

And I am certain, Mr. President, that if we handed this issue over to the four chairmen of the Committees on Education, these are the kinds of recommendations they would make legislatively. There is no doubt in my mind. And they are the issues we should be dealing with, not the so-called Educational Empowerment Act that takes power away from the local school districts.

Mr. President, I am disappointed. I am disappointed because we have a magnificent opportunity to positively impact education in this Commonwealth, and we are not taking advantage of that opportunity. I am disappointed also because one of these 11 school districts is in my senatorial district and no one within that school district has said to me that they want this legislation, so that concerns me.

But I am disappointed the most because we think this is a quick fix for those 11 school districts, when in fact it is not. We need to do some structural, systematic changes in education if we are going to positively impact it, and we are not going to see the results overnight, Mr. President. We are not going to see them in 1 year, 2 years, or 3 years. It is going to take almost a generation to see them. I think we as a General Assembly need to come up with the courage to do some of these things, and I hope that the next time we have a piece of legislation in front of us that it is a solid piece of legislation related to educational reform.

Because of the reasons stated by me earlier, Mr. President, I cannot support Senate Bill No. 652.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I could not agree any stronger with the previous speaker in what he just pointed out to us. Senator Wagner is, of course, right on the money on each and every point that he made. I also agree, I do not want to be repetitious as to what the gentleman said, but I feel the same way he does about the chairmen of the Committees on Education in both the House and Senate here in Pennsylvania. I think

we have extremely competent people who are chairing those committees who are quite capable of dealing with this subject, as they have dealt with every other subject dealing with education in the years that I have come to know them. I think it is a disgrace that they are having an end-run in trying to have this kind of thing done. I know how badly they must feel about it, in addition to knowing that what is in this bill is not necessarily in the best interest of the children of this Commonwealth.

You know, in the 22 years that I have been coming down here, Mr. President, I have left Harrisburg many, many times upset by the proceedings on the floor of the Senate, as far as proceedings that involve both the Senate and the House. I have found that my disappointments in the 22 years that I have been here far, far outnumber those things that I have really felt joyful about. I think that is not unlike most of the political situations that I have dealt with in my lifetime. Politically, it seems that your accomplishments never catch up to your disappointments. That is what I find here in this wonderful institution called the Senate of Pennsylvania. I think most of my colleagues in the Senate have gone home many times with the same feelings.

I found myself many times in the past arguing with myself, not allowing myself to believe, kidding myself that what we are involved with here in our State government does not constitute an autocracy or a dictatorship. I may not feel that way many times on the floor of the Senate, many times when I see the machinations of various legislative proposals that come before us, but nonetheless, I am going to have to have another argument with myself when I go home sometime after this Session. I am going to have to reappraise whether or not I feel strongly that this government of Pennsylvania is becoming too autocratic, too much like a dictatorship.

I find myself here today, as yesterday, with very mixed emotions about Senate Bill No. 652. I find myself once again experiencing the feeling of having been blindsided with another backdoor deal which eventually will blow up the public school system right here in the State capital city. It will foist various dictates as provided in Senate Bill No. 652 on others. All this comes about in Senate Bill No. 652 without any input from any of the affected taxpayers, the parents of the children in school, the teachers, the educational experts that we have come to know, or anyone else, for that matter.

It may very well be that our economically- and educationally-distressed schools really do need some strong medicine. That may be so. But the cure that we are seeing here in Senate Bill No. 652 has never been tried before. It may work, or it may be worse than the disease. At the very least, there is no question in my mind, as there is none obviously in the minds of the leaders of the Committees on Education in the Senate and the House, that at the very least this proposal deserves a public hearing before it is rushed through the legislature in order to become law. They talk about empowerment of the people in Senate Bill No. 652. It is supposed to effect positive change in their schools. I do not think so.

As I said before, it is a backdoor deal that disenfranchises people. And right here in the capital city, in Harrisburg's case, it totally abolishes the duly-elected school board in favor of an appointed board of control. I do not know what has happened to

the Republican talk of empowering local communities and returning power to the people at the grass roots. This is nothing but an edict from the top, without any attempt at cooperative discussion or meaningful partnership between State government, the affected school districts, educators, parents, and taxpayers alike.

Maybe, as I said before, what is needed is a revolutionary change. I certainly am not opposed to revolution, in many cases. But what I am saying is I do not believe, as most Members in this General Assembly, that that should not come without the deliberative, thoughtful, and the responsible analysis and dialogue and public input that these drastic changes deserve. I think it is another example of how absolute power does corrupt absolutely. It is yet another example of the abuse that we experience of one-party rule here in our State government. I think many of the bad laws that we have passed in the recent past are a result of short-circuiting the deliberative legislative process.

I can remember only a couple of years ago Act 50, which was called local tax reform. That was a flop that our good Governor hailed as historic when he signed it. It was rammed through in much the same way as this bill, Senate Bill No. 652. It was first introduced and thrown into an unrelated bill on the same day that it was passed in both the Senate and the House. And 2 years later, here we are, we still have no school property tax relief for anybody. Only 3 districts out of the 501 school districts in the Commonwealth of Pennsylvania have even decided to experiment with the process. Most of the school districts, including those in the home districts of the prime sponsors of that bill, do not want anything to do with it, despite all of the public relations, all of the hoopla, all of which came at the time of the bill's enactment. It was a knee-jerk quick fix that has not provided one dime's worth of school tax relief to anybody. And here today we are witnessing the same kind of hasty action, bypassing proper consideration by the appropriate standing committees of the Senate, and the House for that matter, on this law which deserves more hearing and more public input.

I can remember Act 1 of 1998, the State mandate that attempted to restrict the discretionary authority of the elected Allegheny County sheriff to hire personnel. That is another classic example. I can remember Act 46 of 1998, which gave the State the authority to take over the Philadelphia School District. Act 57 of 1996 was the anti-worker workers' compensation ripper bill that diminished the rights of injured workers to the just compensation they deserve. And, Mr. President, the list goes on and on.

I say to you and to all of those within hearing this evening that we should stop this mad rush to enact another bad law. We have enough bad laws on the books. I would say to you that if this bill is worthy of our approval, then it should be able to withstand the light of day and also the public scrutiny that it so richly deserves. The proposal seeks to experiment with the introduction of for-profit corporate-run schools where the bottom line is sure to be private industry profits at the expense of the education of our children.

We have already had this experiment with privatization, Mr. President, and it occurred in my senatorial district. It occurred right at the Turner Elementary School in the Wilkesburg

School District. And guess what? After 3 years, 3 years of turmoil at Turner, this experiment in privatization was pointed out in a 65-page report that was prepared by the independent researchers founded by the Grable Foundation and the Heinz Endowment. They found that this experiment just did not work. Not only did it not work, but the basic skills, test scores, actually declined, went into reverse, Mr. President. And I say to you all, so much for the privatization of our schools and what the contents of this bill hopes to put forward.

I say, let us do away with all these confrontational, headline-grabbing, quick fixes that only make matters worse, and let us not pass this bill this evening. I ask for a "no" vote. Do not concur in Senate Bill No. 652.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, I arrive at this moment listening with great intent, as I have listened for some time today, to comments that have been made, and hopefully my comments are for the record, because most of us, if not all of us, have made our decision on how we will vote tonight, so our comments truly are for the record and for public discussion. I will be considering in the light of evaluating a variety of perspectives.

I will start first with the comments of my dear friend from Philadelphia County who described what most Democrats would desire of this process and what they would desire to come out of the legislation. Well, I would not stop at most Democrats, I would say all Democrats desire to have smaller class size, more money, world-class education, full-day kindergarten, but I would not describe it as Democrats that would desire to have that. The laundry list of wants that we have probably are shared by Republicans as well as Democrats in this Chamber. We have had these discussions for not 5 years, not 10 years, we have had these discussions for as long as I can remember about the want list, in this Chamber and in that Chamber, and in State government specifically.

I also listened intently today about people being offended by the fact that we did not take all these concerns and these want lists through the committee process. Well, I, too, have great respect for anyone who would chair and take responsibility of a committee, and in particular the Committee on Education. What was avoided in the discussion of the school children that were here today were the political realities that exist in Harrisburg. There is a reason that want list has existed for more than a decade in Pennsylvania for full-day kindergarten and additional funding. There is a clear reason and a directive as to why the committee process was not honored. It is because we have taken these ideas and they have been lost. They have gone into the committee process and fallen into the abyss and gotten lost in adult desires, adult wants, adult protections. What has been lost in the committee process, unfortunately, are those ideas which are most relevant to saving children.

I come from a county in which, with all due respect to Senator Wagner, our tax base is the State. The majority of the tax dollars that contribute to public education in Philadelphia County are State dollars. And for those of us who reside there

and represent people back there, we have not only the right but the responsibility to be accountable for those State dollars. I am not sure how anyone, in good conscience, can come here year after year and talk about the concept of improving education without, frankly, doing something about it. I am tired of waiting. I, for one, am glad that this day has come. I truly believe there is a God above and I truly believe God has defined certain specific steps for all of us. In my case, I am an African-American who grew up in Philadelphia County, who attended public schools, who is a registered Democrat, and finds himself not conflicted by this moment but inspired by this moment.

Today I heard someone say on the floor of the House that we would ravage the educational process if we decided to make this vote. I would say to that gentleman and to everyone else who is within the echoes of this hall or can hear me either by public television or anything else, I desire to ravage the educational process in Philadelphia County, because it does not work. We play all sorts of duplicitous games with information. We would suggest that they send more money. Well, we realize that even those who have echoed that for 20 years now, championed it, recognize that more money just simply is not the answer. We find ways to waste the money. By the way, in city council they dedicated revenues for more books. Channel 6, Channel 10, and Channel 29 have run reports on how kids do not have books today. Where did the money go?

I have been here for 11 1/2 years. I was here when Governor Casey, and I was part of it, increased taxes to a historical amount in the Commonwealth of Pennsylvania, and an increased amount went to Philadelphia County. We then, too, under a different mayor--that was two mayors ago--a different school board--that was two school boards ago--said we need more money. We sent them more money. We sent them what they asked for. They took the money, and they wasted the money.

This process of children not being educated did not happen overnight. I come from a family of educators. Thank God my mother was and is an educator today. She volunteers her time in creating educational environments for children, as we speak today, not paid, but because she desires to do it. She is driven to do it. I grew up in a block with three educators, three public school teachers. I could not get home without the information getting there first, because my mother taught in the same school with three other public school teachers. You are not talking to someone who does not have compassion for children in the public school environment. My children today attend public schools.

I talk in these directed tones because I am sick and tired of having these conversations with no results. Well, let me tell you, for anybody who questions what will happen at the end of this process, I will guarantee one thing: \$16 million extra will go someplace, most of that to Philadelphia County. For anybody who would complain about sending it to Philadelphia County because it is not enough, I do not understand how you would take it back. That is like not having enough money to pay the light bill, and because we do not have the complete contribution, we do not take any of it. That is ludicrous.

And for those who want to continue to complain about the process, well, I come from the Democratic Caucus. I have been in the Majority as a Democrat, and I am now in the Minority. Every year we run a budget. Every year it is the same complaint: Why do we get it at the last minute? Why does everyone not understand it? Why do they cram it down our throats? Guess what? Everybody who has stood at these mikes tonight has participated in that process, because their little line was in it. They got what they wanted out of it, so they shut up, sat down, participated, and voted. They voted in that corrupt nonappropriation budgetary hearing process because their line was in it. Well, guess what? It is getting close to having my line in it.

Absent some adult protectionism, absent some silly notions that may or may not work, but full of the possibilities of what is going to happen with children, they are going to get more money in Philadelphia County. That is what is going to happen. And let me tell you, at this point in time, I do not know how we can turn away any offerings of hope and support. We have some housekeeping to do in Philadelphia County, and for anyone at this moment to say, I would not give one more dime to Philadelphia County without us getting people out of the back seats of chauffeur-driven cars, without us not having school members eating at the Palm Restaurant, without us doing our housekeeping, God bless them. I am glad they are doing it. Now we have some things we have to do. Let us be honest about this.

Someone said, you know, if this does not work, I hope that the people who support this measure are accountable. Well, guess what, Mr. President? Anyone who has been here for more than a year and sat here while their district, if they have one of the 11, fell into the abyss, and by the way if they have been here for more than 5 or 10, that is what they should be accountable for. All of a sudden, you know, it is not done in 1 year, it is not done in 2 years, it is not done in 3 years.

By the way, I am president of a for-profit management company charter school in Philadelphia County. My head is on the line every day. Parents have my home number and they call me. And, by the way, I will fire the management company when it does not perform to the expectations of the parents, the children, and the board. Oh, by the way, I also have some of those public schools that we have talked about - Bartram, where the kids get shot at. I also have a couple more where two girls were raped. Now, let me tell you the difference between my for-profit management company charter school and those. If all those things happened in my charter school, it would not last a year, Mr. President. The difference is they would be allowed to close and the parents would close the doors. There would not be any automatic giveaway check. But the environment at Bartram continues today. Those young ladies who were raped have no justice today. Those schools are open today, and do not have the possibility of closing tomorrow.

You know, I could have walked over to the podium and said, it is late, I have to go, vote me. I do not have to stand here. I do not have to take the ridicule of some of the Members I sit with. But this is more than a vote to me. These are not words. These are deeds that we will be measured by. I listened and I chuckled when I heard the chair of the Committee on Education talk about one of the letters he received describing charter schools as

a gimmick. I chuckled. The Ford Model "T" was a gimmick. The airplane was a gimmick. The TV was a gimmick. They were ideas that have defined an era and the technological revolution that has led this country into untold prosperity.

And for those who keep complaining, well, the bill does not have this, the bill does not have that, let me tell you something. First of all, it is not the last bite of the apple, because I have been here for almost 12 years now, and within the last year we have done more for education than in my entire legislative existence, and, more frankly, than I have found since I have been around public service. You will get your shot. But more importantly, if you had the fortitude to forge relationships, you would have your input. The notion of this legislation did not come from some Governor sitting back in his office talking to his children and his wife, or Senator Hank Salvatore sitting in the northeast. It came from people from districts like mine complaining that we have to do something about these crummy schools.

Do not take my opinion for that, read any newspaper. It is one of the top polling issues that all of us politicians follow: Education, do something about it. Because we know voters are schizophrenic, we hide behind every little crack and crevice that we possibly can and shake down every interest group we can up here. I am your friend. I have to apologize because I take a position. We should apologize to these kids we deceived, whom we send up on buses every time and say, you know, they are not going to give you money from the State. We should apologize for deceiving them. Because guess what? When they grow up and they have kids, do you know where they will not be? They will not be in these crappy neighborhoods with these crappy schools, because they will know the truth. They will know the truth is not as simplistic as us sending a blank check to somebody who makes over \$100,000, who, by the way, does not send his kids to public school and has a chauffeur to drive him around and talks about his concern for poor people. Please, please stop being so hypocritical.

For those who say, you know, this bill is not about children, it is about who is in charge, guess what? I am all for that. There was a lot of controversy in Philadelphia County about the mayor deciding who the school board was. Well, I have lived through several mayors who said, it is not my fault, it is the State's fault; it is not my fault, it is the Governor's fault; it is not my fault, it is the president of the school board's fault. I did not appoint that person. Guess what? We finally have somebody either to hold in high esteem or to explain to us why things are not working. So if this bill helps him and that school board, finally, not with being in charge but being accountable, I think we should be for that. I do not think that is a bad thing. I think there should be a record.

Bold action? Baloney. At this point in time, we should stand for any action, because we do not take any. We are the ones who fill the air with a whole bunch of hot air and rhetoric. Bold, great new ideas? Come on. Be honest. We are concerned about who talked to us last and what they told us.

Now, understand, my passion does not belittle the desires of those who want to have a perfect bill. I, too, want to have a perfect bill. I, too, desire smaller class sizes. I have had bills intro-

duced for that, and had it passed out of the House. I did something about it. I, too, want more money in the public education system directed towards kids being taught. I, too, want to help teachers, good teachers. I want to have incentive dollars tied to teachers. We have a shortage of teachers in Philadelphia County. I was listening to a speaker talk about that today. He said it is now down to 100 and this bill is going to wipe out the teaching profession. As he was saying, the shortage is declining in Philadelphia County. How did we do it? We paid them more money.

Of course, we want that money on our terms. Well, I want to introduce a bill that says, you know, I want that great teacher who teaches at Central to come teach at West Philadelphia High School or Bartram. They say, no, we have a little system here. They decide where they want to teach. Well, I want to have the resources to attract them. I do not want it to be as simple as, I taught in this school for 20 years now and I am tired, I do not want to teach here anymore, so I am going to use the seniority process to go to a different school, because I have been around this and I do not want to deal with it. I want to say, you know what? You are right. We have a responsibility to create a certain safe kind of environment. Guess what? The smartest kid is going to excel. We truly need your help at Bartram, and because you are willing to do that and you have spent 20 years in the system, as opposed to waiving your education grant, which is at the beginning of your career and, frankly, you are neophyte to the whole process and probably overloaded with all you are going to be handed when you first hit the door, we want you when you really know what you are doing, we want you at your best game, we want you at your A game, and because of that, we are going to pay you more money. We are going to give you a bonus. I want that, too. And, by the way, not everyone who is, quote, unquote, "part of the special interest process" wants that, because you know we all want to say that everybody is equal. Well, guess what? Not everybody performs equally.

Why are we afraid of what the world really is like? That is what the world really is like. These little protected, vested interests that we have, we as a nation can no longer survive. This question we are facing today does not come from anything other than human capital drives this country, and if we do not have human capital that is attached to the mind with the abilities to do certain things, this country goes into the toilet.

This issue is right, they did resound 20 years ago. But, guess what? They did not resound in communities beyond just my neighborhood. Now you can look at almost any map across the Commonwealth and find people of all persuasions having these issues, people who have brown-colored skin, yellow-colored skin, Caucasian. All of them are joined at the hip with regard to what are we going to do with our children who are not being educated properly?

And by the way, for anyone who supports this, I am tired of hearing that we do not like teachers. That is ludicrous. I do not like bad teachers. I do not like people who take a paycheck and beat the student to the door to get out of there by 3:30. I do like the teachers who teach my daughter and take the extra time to call me at home and say, Asia is not doing as well as she should be doing, and you need to know that, and, by the way, here is

the plan and I will talk to you on Saturday. Those teachers should be rewarded, not only rewarded but hats tipped to them. And by the way, those teachers are the ones getting out of the profession because we are not protecting them. They are the ones who are talking to us in spite of the buffer, who are giving us ideas on how to repair the system. They do not have these little points of information sheets all written up and nicely appointed and paid for. They just show up with their hearts on their sleeves, compassion out of their lips, and concern.

Stop beating up people saying we are against something when we are promoting something. If I sound like I am frustrated, if I sound a bit agitated, if I sound a bit intolerant, forgive me. I am not. I am just sick and tired of everybody telling me what you cannot do. I am sick and tired of people sitting around and addressing legislation for all that it does not do. I am tired of people playing manipulative games of public service and government and knowing what it is all about and moving the checkers while Rome is burning.

Pennsylvania is getting older and aging before our eyes for a good reason, and it is not black, white, Democrat, young, old, conservative, or liberal. That is a fact. And they are not moving because the winters are cold. They are moving because we are scared to take on deliberative, tough questions. I voted for that tax increase, and I did not apologize for it then, and I do not apologize for it now. I believe we should be contributing more money to the public education process. I believe that. I believe we need to take further control of how we direct those funds, but I equally believe that these ideas which are resonating not just among us here, because we are the last to get these ideas, but in the truest sense of democracy within communities that have never heard about this stuff.

When I was invited to Milwaukee to a conference of African-American educators, people who have run school systems, people retired from school systems, people who work in school systems, people who look like me and feel as angry, if not more angry and agitated and frustrated, then I know something is going on. I look at the list of Members of color from Philadelphia County who voted for this bill, certainly not because they think it is a perfect bill, but because, guess what? They have nothing else to support.

This is not a litmus test, this is a bottom line. This is not political rhetoric that I am speaking tonight, this is just fact. And people take it for how they want to take it. I could care less. I am not going into my Caucus and apologizing anymore, because I believe that the kids who are being miseducated at this point in time have as many rights as my children do, who, by the way, if they have a problem, guess what? I will take them out tomorrow, and if they are not in the right school, I will call the superintendent and demand they get in the right place. But because everybody does not have that ability to pick up the phone, as we all do, I never hear about that truth on the floor. I never hear about that. These noble ideas. That is all I hear about.

Get real. The match has been lit. The torch has been passed. Now we are either going to burn down the place or we are going to light it up for the future of our children. This is not, by any stretch of the imagination, the answer to all those problems. It

was not intended to be, never intended to be, will not be, but if you have the concerns you articulated at this mike, then do something about it. If I, an African-American Democrat from one of the districts of Philadelphia County, the den of iniquity, can be engaged in this political process and leverage something, then everyone and anyone here can. Because when it comes to last, we are last, but if I can get in the game, there is no excuse for anybody else. None. And I do not want to hear rhetoric about it. I do not want to see fact sheets on how we are hurting somebody, because I read *The Daily News* and *The Inquirer* every day and see these kids being locked up in record numbers. People are not being hurt, they are being destroyed. Let us get started.

So, I stand in proud affirmation of Senate Bill No. 652, and I am glad, I am glad that people are beginning to pay attention to the business of Pennsylvania, and I hope at some point in time more of us will engage in this business of Pennsylvania.

So, thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Salvatore.

Senator SALVATORE. Mr. President, I have been sitting down in my office listening to the debate all evening, and I guess everyone wants to be philosophical, everyone wants to think that they know what they are doing, about what we are doing wrong, about what we are going to do tonight by passing Senate Bill No. 652 with the educational empowerment part of it. Is it not amazing, though, that everybody in Philadelphia wants it? The Democratic mayor wants it. The Democratic Senator, Senator Williams, wants it. The House Members from Philadelphia want it.

Give us a chance. You know, if we do not do something about education in Philadelphia, you are all going to pay for it. You are all going to pay for it. We cannot bring economic development back. We cannot bring industry back if we do not have good schools. And it has not worked. What we have been trying to do has not worked.

And all the people who know everything about education, I do not doubt that they know a lot more than I do. I came from immigrant parents. I did not have a chance for someone to tell me if I was doing my homework right, because I could not go to anyone. And we have a lot of children today like that in Philadelphia, who cannot go to anyone for help. We have single parents. We have all the other problems that urban areas have, more than the other problems. Urban cities are decaying. We have 31,000 abandoned houses, probably by now we have 32,000, because every day we get more and more. I have more "for sale" signs in my district because people want to move out of the city. Why? Because of education.

The teachers, half of the teachers do not live in the city. They send their kids to the schools in Lower Moreland, Upper Moreland, Jersey, wherever they live. And I am not faulting the teachers, because the teachers try to teach. But we have bureaucracy down there like nobody has ever seen. All I am saying to you is give us a chance. If something is broken, you try to fix it. Well, it is broken. The educational system is broken. Give us a chance to try to fix it.

I can speak here for another half hour, but I am not going to do that. I just want to make my point. We are from Philadelphia. We know the problems of Philadelphia. Give us a chance. Otherwise, as I said before, all of you and your constituents are going to pay the freight, because if we keep failing and you keep sending money down there and it does not work, and you keep sending more and it does not work, eventually the city will be financially bankrupt. Because if we had not put that 1 percent sales tax increase in for the city of Philadelphia, in the last 8 years they got \$650 million. That is what they got, and they have a surplus now of \$200 million. Does that tell you something? And we have five contracts coming up.

All I hope is that you will help us back in Philadelphia and pass this legislation. The piece that I am more concerned about is the educational empowerment piece, but the rest of it is good, too, because the rest of it enhances every school district, gives more money to everyone else, especially the special ed money.

Please, all I can say to all of you, you might not like it, you might have to hold your nose, whatever you have to do, but give us a chance so we can have a better school system in the city of Philadelphia.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Mr. President, I would like to ask, and I want to make sure I am doing this correctly, if the gentleman from Philadelphia, Senator Salvatore, would stand for brief, very brief interrogation.

The PRESIDENT. Senator Salvatore, will you stand for interrogation?

Senator SALVATORE. Yes, Mr. President. Here we go again.

Senator HUGHES. Mr. President, I just want to confirm, if I can, the numbers that we are talking about with respect to this particular proposal, and I asked the gentleman to stand because he has been involved in this proposal.

Senator SALVATORE. Pardon me, Mr. President, I have not heard a word the gentleman said.

Senator HUGHES. Mr. President, I will speak louder.

Senator SALVATORE. Please do, because I cannot hear the gentleman at all.

Senator HUGHES. Mr. President, I asked for the gentleman to rise because of his involvement in the proposal since its inception, I guess a couple weeks ago, just to confirm the numbers. The way we have the mathematics on our side, and we got this relatively late, so it needs confirmation, the way our children in Philadelphia, I believe, are supposed to receive additional dollars, and I think it is to the tune of about \$16 million for the entire district, it is my understanding that that breaks down to about \$75 per child. Is that correct?

Senator SALVATORE. Mr. President, is that the question?

Senator HUGHES. Yes, Mr. President.

Senator SALVATORE. Mr. President, I mean, the gentleman made a speech, and I do not know what the question is. Could he give me the question?

Senator HUGHES. Mr. President, how much per child would each Philadelphia student receive?

Senator SALVATORE. Mr. President, probably \$75 more per child.

Senator HUGHES. Mr. President, \$75 more per child, and that is per year?

Senator SALVATORE. Yes, Mr. President. It is almost \$16 million that we are going to get in Philadelphia.

Senator HUGHES. Okay, Mr. President, \$16 million.

Senator SALVATORE. Mr. President, 15-point-something, almost \$16 million. Yes, Mr. President.

Senator HUGHES. Okay, Mr. President. So that is \$75 per child. So is that an affirmation that new money is relevant to the process? Does the gentleman believe that that is an affirmation that new money for Philadelphia students is relevant to changing their outcomes? That we need new money, additional money in the city?

Senator SALVATORE. Mr. President, we need some money, yes. Not new money. I think that we have a lot of bureaucracy there in the city of Philadelphia, yes. And I think that the previous speaker eloquently spoke about some of the problems we have with the \$33,000 that was spent for expenses for the trip that they took and all the other moneys, and the chauffeurs, and we could go on and on with the padding of payrolls down there, yes.

Senator HUGHES. Okay, Mr. President. I thank the gentleman.

If I could provide brief comment, Mr. President. Just talking to some of my other colleagues on the side and walking around, I reflected on the specifics and the passion of the comments of my colleague from Philadelphia, Senator Williams. And a lot of what he said--not all, but a lot of what he said--I would find complete agreement with. We share similar histories in the context that both of our mothers worked, work--mine still does. She will not retire for anything--in the public school system, and for a number of years they worked together in the public school system. In fact, I just talked to her on the phone a few moments ago. I try to report in every day to make sure that she knows that her son is trying to do the right thing and is where he is supposed to be.

I guess my concern, Mr. President, in all of that, even though I agree with both the passion and the comments that my friend, the gentleman from southwest Philadelphia, made, I just do not want, and I do not want to say that he said this, but I heard it said by other people on this floor, I do not want folks to believe I think in any way, shape, or form that this is a bold initiative. It is an initiative, it may be a relatively new initiative. It is definitely a relatively new initiative since we just got it a few moments ago, but this is not bold. This is not bold. You know, it acknowledges the fact that certain districts, most of them poverty districts, most of them districts with significant diversity and significant color to them, it acknowledges the fact that they need new dollars.

But this is not bold, not in a Commonwealth that is flush with cash, that in its most recent budget numbers was \$150 million above budget projections, not in a Commonwealth with a billion dollars sitting in its Rainy Day Fund. This is not bold. Now these are dollars going to places that clearly need dollars. There are a number of caveats attached to those dollars that I



have significant problems with, but this is not bold. If you want to talk bold, then let us spend down in an aggressive fashion that Rainy Day money, that billion dollars. Let us take half of it and put it to small class sizes. Let us be bold. That is bold.

It is a crime to the children of this Commonwealth that we can sit flush with cash, and in educational environments where resources are sorely needed, and I am not necessarily just talking about resources that go to the bottom line, I am talking about needs that are targeted like small class sizes, and we have all this dough, all this money, but we have school buildings crumbling, and we refuse to address in a bold way those issues, those realities. This is an initiative that is going to pass and is going to be signed by the Governor. It acknowledges the fact that certain districts need additional dollars to have an impact, to make change. It is not bold. It is something. For whatever political reason it has been done, it is something.

And hopefully there is a political arrangement around that says, well, if this happens, the left hand gets this done, then maybe there will be a light at the end of the tunnel for some bold activity and bold action on the other end. And maybe that political arrangement is out there somewhere waiting to be had, waiting to happen, waiting to occur. And I hope it is. And I offer the suggestion I just made, and others that have been around for a long time, that they get part of that arrangement, because it is in smaller class sizes and in some of the things that Senator Williams talked about that can effect change, or where change can be realized in the classroom. The students can perform, students can achieve. But this one is not bold. This one is not the one to call bold and new and exciting, a new and wonderful initiative that is going to change the course of education in the Commonwealth of Pennsylvania. No. And for those individuals who stand up to try to purport that this initiative is, they are sadly mistaken. I would disagree with them.

So we are here. Philadelphia schools will get an extra \$75 per child, and hopefully we will find a creative way to make that something of significance with respect to their achievement. I hope that will be the case. But we stand tested, tested at this moment and challenged at this moment to really see if there is the political will of this body and of the House and of the Governor's Office to be bold. We recognize that new dollars are relevant. We even recognize in the legislation that some of the things that we talked about, smaller class sizes and things of that nature, which are in portions of this legislation, I saw that in the language, we even recognize that those might have an impact. But let us be bold.

We have an economic environment in this Commonwealth unprecedented in its history of economic surplus and economic opportunity to do things, okay, to change the course of the lives, of the outcomes of our children. All right. But let us be bold. Let us not talk about being bold, but let us go, in fact, and do it.

Thank you very much, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Beaver, Senator LaValle.

Senator LaVALLE. Mr. President, I was not going to say anything, but I am sitting here listening to all of the comments here tonight and I am a little confused, and I get more confused the longer I sit here. Somebody needs to tell me, and I think

Senator Hughes asked Senator Salvatore what amount of money is going to go into this pot for Philadelphia. I think he said something like \$15 million, and I am not going to ask anybody this question, but I hope that in the next couple of days, so I understand more clearly what we are trying to do in Philadelphia and places like Aliquippa, what are they going to do in Philadelphia with that \$15 million to make that school system better than it is, so those kids in Philadelphia can get an education? I have not heard that anywhere. What is this going to do? I need somebody to tell me that, and I hope that sometime in the next week or so someone from the Department of Education, from the administration, or somebody who thinks that \$15 million is going to solve that problem, please tell me what that is, because it is more of a dollar problem.

A lot of times I hear people up here saying education is not something you just throw money at and make it better. Please, I am going to vote "no" on this legislation for a lot of reasons, but somebody has to tell me pretty soon what this money is going to do and what Philadelphia intends to do to make a better educational program for those kids, because I have the same situation in Aliquippa, and maybe I can learn something.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, I am going to do this quickly because I am going to put most of this on the record. I had a number of questions on Senate Bill No. 652, one of them being how does the academic advisory team or the board of control get access to school records, school personnel records? You cannot do that, and you are supposed to put these reports together. Those are the kinds of questions that are in here. There are also, with all due respect, drafting questions in here as to interpretation and the rest. That will take us a number of hours, but, hey, I can see the handwriting on the wall. You know what everybody is going to do in the process anyway.

I wanted to talk about waivers, and I will tell you what, I really, really wish some of you would pick up and read the School Code. This is it. Since 1949, we, the General Assembly, this Senate and that House, have put this together. We are protecting about that much (indicating). This is how much is going to be waived (indicating), okay? That is what people can ask for. You might say that is a heck of a lot of waivers.

We protect nonpublic transportation. Okay, we have done that. Why? Because it is a politically smart move. Who is ever going to risk that, because I will tell you what, you will have them around your ears like it is going out of style. But do you recognize that you allow waivers for all of Article IX, which means that intermediate units may no longer have to provide textbooks, instruction materials, guidance counseling, vision, hearing, remedial, ESL, and other services to nonpublic schools? So if you have an enterprising IU, all they have to do is wait until the department is swamped, submit its waiver request and wait 60 days for the request to be deemed.

There are a number of other waivers that are in here. You ought to pay attention to them because people are going to be asking about them later on, so get out a copy of the School Code and read it.

My last thing is I had a number of motions here. One was to refer the bill to the Senate Committee on Education because we never had it. The second was to refer it to the Committee on Appropriations because I think there was \$5 million added to the bill over in the House, and I know there was a change in there. We do not have a fiscal note on it, so I do not think that is a good reason, so we can call other ones down. I was going to move to suspend Rule XIV for the purpose of offering further amendments to House amendments. I wanted to offer an amendment for an equitable funding formula for all 501 school districts, the old PARSS suit. I was ready to do that.

I was going to take the Tomlinson-Stairs amendment and put that in. As long as we are changing education, let us change it right. The last thing I would have asked for would have been for smaller class size. I have another stack of research reports that tell us it works, yet we do not want to do that. And I think Senator Hughes is right, that is where we should be investing the money. I had all those amendments, and another thing I wanted to do was suspend Rule XIV to divide the question between the School Code, what is there, and the rest.

But hey, I am a big boy and can read the handwriting on the wall. Let me say this: I will be there to challenge the implementers of this program. You had better not screw up because I will be jumping on you with both feet. I will pick you apart. There will be no mercy. And by the same token, please do not come crying to me when somebody is crawling around your ears, because I am going to take out the remarks tonight, the issues that are here, and I am going to say I told you so. That is all I have to say.

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

## YEA-28

Armstrong	Gerlach	Loeper	Slocum
Bell	Greenleaf	Madigan	Thompson
Brightbill	Hart	Mowery	Tomlinson
Conti	Helfrick	Murphy	Waugh
Corman	Holl	Piccola	Wenger
Dent	Jubelirer	Robbins	White
Earll	Lemmond	Salvatore	Williams

## NAY-18

Bodack	Kasunic	Punt	Tilghman
Boscola	Kitchen	Rhoades	Wagner
Costa	Kukovich	Schwartz	Wozniak
Fumo	LaValle	Stout	
Hughes	O'Pake	Tartaglione	

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

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

## BILL SIGNED

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the presence of the Senate signed the following bill:

SB 652.

## ADJOURNMENT

Senator LOEPER. Mr. President, I move that the Senate do now adjourn until Monday, May 8, 2000, at 2 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate adjourned at 9:17 p.m., Eastern Daylight Saving Time.