

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, DECEMBER 14, 2011

SESSION OF 2011

195TH OF THE GENERAL ASSEMBLY

No. 84

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.s.t.

**THE SPEAKER (SAMUEL H. SMITH)
PRESIDING**

PRAYER

The SPEAKER. This morning the prayer will be offered by the Reverend Jimmy Swogger, Oakland Church of God, Distant, PA.

REV. JIMMY SWOGGER, Guest Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

Our gracious God, we give thanks for another day. Bless the members of this Assembly and our Governor as they begin their work. Help them to make wise decisions as they carry out the responsibilities of this great State. Give this legislature a generous heart and the courage of true leadership to work towards the common solution of the many issues that face us. Find the fortitude to make the judgment that is beneficial to the Pennsylvanians. May it be done in Your name and glory this day. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Tuesday, December 13, 2011, will be postponed until printed.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 272, PN 2895 (Amended) By Rep. DiGIROLAMO

An Act establishing a task force on Lyme disease and related maladies; and providing for powers and duties of the task force, the Department of Health, the Department of Conservation and Natural Resources and the Pennsylvania Game Commission and for required coverage.

HUMAN SERVICES.

HB 1662, PN 2893 (Amended) By Rep. BENNINGHOFF

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in sales and use tax, further providing for exclusions.

FINANCE.

HB 1761, PN 2894 (Amended) By Rep. BENNINGHOFF

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, in employees' retirement system, further defining "compensation"; further providing for retirement board; providing for tax qualification; and further providing for employees eligible for retirement allowances and for amount of retirement allowances.

FINANCE.

RESOLUTION REPORTED FROM COMMITTEE

HR 223, PN 1564 By Rep. BENNINGHOFF

A Concurrent Resolution urging the Congress of the United States to reexamine the Federal Unemployment Tax Act as it relates to corporate officers.

FINANCE.

LEAVES OF ABSENCE

The SPEAKER. Turning to leaves of absence, the Speaker recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. Dennis O'BRIEN, from Philadelphia County for the day; the lady, Mrs. BROOKS, from Mercer County for the day; the gentleman, Mr. Mark KELLER, from Perry County for the day; the gentleman, Mr. SIMMONS, from Lehigh County for the day; the gentleman, Mr. STEPHENS, from Montgomery County for the day. Without objection, the leaves will be granted.

The minority whip is recognized and requests leave of absence for the gentleman, Mr. PAYTON, from Philadelphia County for the day. Without objection, the leave will be granted.

We are about to take the master roll call. The members will please report to the floor.

MASTER ROLL CALL

The SPEAKER. The Speaker is about to take the master roll call. The members will proceed to vote.

The following roll call was recorded:

PRESENT—196

Adolph	Ellis	Knowles	Rapp
Aument	Emrick	Kortz	Ravenstahl
Baker	Evankovich	Kotik	Readshaw
Barbin	Evans, D.	Krieger	Reed
Barrar	Evans, J.	Kula	Reese
Bear	Everett	Lawrence	Reichley
Benninghoff	Fabrizio	Longietti	Roe
Bishop	Farry	Maher	Rock
Bloom	Fleck	Mahoney	Roebuck
Boback	Frankel	Major	Ross
Boyle, B.	Freeman	Maloney	Sabatina
Boyle, K.	Gabler	Mann	Saccone
Bradford	Galloway	Markosek	Sainato
Brennan	Geist	Marshall	Samuelson
Briggs	George	Marsico	Santarsiero
Brown, R.	Gerber	Masser	Santoni
Brown, V.	Gergely	Matzie	Saylor
Brownlee	Gibbons	McGeehan	Scavello
Burns	Gillen	Metcalfe	Schroder
Buxton	Gillespie	Metzgar	Shapiro
Caltagirone	Gingrich	Miccarelli	Smith, K.
Carroll	Godshall	Micozzie	Smith, M.
Causar	Goodman	Millard	Sonney
Christiana	Grell	Miller	Staback
Clymer	Grove	Milne	Stern
Cohen	Hackett	Mirabito	Stevenson
Conklin	Hahn	Moul	Sturla
Costa, D.	Haluska	Mullery	Swanger
Costa, P.	Hanna	Mundy	Tallman
Cox	Harhai	Murphy	Taylor
Creighton	Harhart	Murt	Thomas
Cruz	Harkins	Mustio	Tobash
Culver	Harper	Myers	Toepel
Curry	Harris	Neuman	Toohil
Cutler	Heffley	O'Brien, M.	Truitt
Daley	Helm	O'Neill	Turzai
Davidson	Hennessey	Oberlander	Vereb
Davis	Hess	Parker	Vitali
Day	Hickernell	Pashinski	Vulakovich
Deasy	Hornaman	Payne	Wagner
DeLissio	Hutchinson	Peifer	Waters
Delozier	Johnson	Perry	Watson
DeLuca	Josephs	Petrarca	Wheatley
Denlinger	Kampf	Petri	White
DePasquale	Kauffman	Pickett	Williams
Dermody	Kavulich	Preston	Youngblood
DeWeese	Keller, F.	Pyle	
DiGirolamo	Keller, W.	Quigley	Smith, S.,
Donatucci	Killion	Quinn	Speaker
Dunbar	Kirkland		

ADDITIONS—0

NOT VOTING—0

EXCUSED—7

Boyd	Keller, M.K.	Payton	Stephens
Brooks	O'Brien, D.	Simmons	

LEAVES ADDED—2

Costa, D.	Evans, J.
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LEAVES CANCELED—1

Stephens

The SPEAKER. One hundred and ninety-six members having voted on the master roll call, a quorum is present.

GUESTS INTRODUCED

The SPEAKER. The House will come to order. If I could I have the members' attention, I would like to welcome some of the guests that are with us today.

Located to the left of the rostrum, we would like to welcome Alexa Landis, a junior at Hempfield High School. She is interested in law and is currently investigating careers in this field, and Alexa is shadowing Representative Aument today. Alexa, welcome to the hall of the House.

Also, as guests of Representative Parker – some are up here to the left of the rostrum and some are in the rear of the House – we would like to welcome students and advisers of New Media Technology Charter School Student Government Association. The officers of the group are seated to my left: Nathaniel Wilkinson, president; Gabrielle Bolt, vice president; Deja Richardson, secretary; and Ernie Ross, treasurer. Will our guests please rise. Welcome to the hall of the House.

And located to the left of the Speaker, as guests of Representative Josephs, we would like to welcome Cassie James Holdsworth, Linda Anthony, Pam Auer, and Deneraee Jones. Welcome to the hall of the House. Give us a wave.

And in the well of the House, the guest page today, as a guest of Representative Hickernell, is Ashlyn Duncan, and she is homeschooled and is in the sixth grade. Welcome to the hall of the House.

The House will come to order.

CALENDAR

RESOLUTIONS PURSUANT TO RULE 35

Ms. JOSEPHS called up **HR 513, PN 2810**, entitled:

A Resolution honoring Cassie James Holdsworth, the Director of National Advocacy and Policy for Liberty Resources, Inc., for her service to the disabled community, for her tireless advocacy for the rights of persons with disabilities and for her strength in overcoming the obstacles and challenges of her disabilities while fulfilling her duties as an American citizen by exercising her First Amendment rights.

On the question,
Will the House adopt the resolution?

The SPEAKER. If we could have the House come to order, please. If the members would kindly hold the conversations down.

Thank you.
The question is, will the House agree to the resolution?

On that question, the Speaker recognizes the lady from Philadelphia, Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker, and thank you for being so warm in welcoming my guests here today.

Mr. Speaker, I stand before you today to ask that you join me in honoring Ms. Cassie James Holdsworth, who is over to the left of the Speaker, a woman of integrity and justice who has devoted a huge proportion of her life to improving the lives of other people, disabled persons, through her tireless advocacy.

Ms. Holdsworth has overcome disabilities and challenges throughout her own journey through life, and yet she relentlessly advocates for those whose voices often fall upon deaf ears – but not here, Mr. Speaker, not here.

Currently she serves as the director of National Advocacy and Policy for Liberty Resources, a nonprofit, consumer-driven organization that promotes independent living for persons with disabilities.

In addition to fearlessly carrying out the mission of Liberty Resources, which includes ensuring the civil rights of the disabled and their equal access to all aspects of life, Ms. Holdsworth serves as the spokeswoman for ADAPT (Americans Disabled for Accessible Public Transit), a national grass roots community that strives to safeguard the rights of the disabled. She recently traveled to the chamber of the U.S. Senate in Washington to lobby for Medicaid reform, all the while pushing for much-needed public funding and community-based support for disabled persons.

Furthermore, Ms. Holdsworth volunteers her time with Disabled in Action of Pennsylvania, and in this capacity she confers with all people on all levels of government in an effort to guarantee the equal and fair treatment of persons stricken with disabilities so that they may have an opportunity to achieve productive lives.

Ms. Cassie James Holdsworth ardently engages in free speech by the virtue of her inalienable right as an American citizen to help her fellow disabled and abled people. Let us honor her this day in this great chamber, and I ask for your affirmative vote.

Thank you, and again, thank you, Mr. Speaker.

On the question recurring,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—196

Adolph	Ellis	Knowles	Rapp
Aument	Emrick	Kortz	Ravenstahl
Baker	Evankovich	Kotik	Readshaw
Barbin	Evans, D.	Krieger	Reed
Barrar	Evans, J.	Kula	Reese
Bear	Everett	Lawrence	Reichley
Benninghoff	Fabrizio	Longietti	Roae
Bishop	Farry	Maher	Rock
Bloom	Fleck	Mahoney	Roebuck
Boback	Frankel	Major	Ross
Boyle, B.	Freeman	Maloney	Sabatina
Boyle, K.	Gabler	Mann	Saccone
Bradford	Galloway	Markosek	Sainato
Brennan	Geist	Marshall	Samuelson
Briggs	George	Marsico	Santarsiero
Brown, R.	Gerber	Masser	Santoni
Brown, V.	Gergely	Matzie	Saylor
Brownlee	Gibbons	McGeehan	Scavello
Burns	Gillen	Metcalfe	Schroder
Buxton	Gillespie	Metzgar	Shapiro
Caltagirone	Gingrich	Miccarelli	Smith, K.

Carroll	Godshall	Micozzie	Smith, M.
Causer	Goodman	Millard	Sonney
Christiana	Grell	Miller	Staback
Clymer	Grove	Milne	Stern
Cohen	Hackett	Mirabito	Stevenson
Conklin	Hahn	Moul	Sturla
Costa, D.	Haluska	Mullery	Swanger
Costa, P.	Hanna	Mundy	Tallman
Cox	Harhai	Murphy	Taylor
Creighton	Harhart	Murt	Thomas
Cruz	Harkins	Mustio	Tobash
Culver	Harper	Myers	Toepel
Curry	Harris	Neuman	Toohil
Cutler	Heffley	O'Brien, M.	Truitt
Daley	Helm	O'Neill	Turzai
Davidson	Hennessey	Oberlander	Vereb
Davis	Hess	Parker	Vitali
Day	Hickernell	Pashinski	Vulakovich
Deasy	Hornaman	Payne	Wagner
DeLissio	Hutchinson	Peifer	Waters
Delozier	Johnson	Perry	Watson
DeLuca	Josephs	Petrarca	Wheatley
Denlinger	Kampf	Petri	White
DePasquale	Kauffman	Pickett	Williams
Dermody	Kavulich	Preston	Youngblood
DeWeese	Keller, F.	Pyle	
DiGirolamo	Keller, W.	Quigley	Smith, S., Speaker
Donatucci	Killion	Quinn	
Dunbar	Kirkland		

NAYS—0

NOT VOTING—0

EXCUSED—7

Boyd	Keller, M.K.	Payton	Stephens
Brooks	O'Brien, D.	Simmons	

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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Mr. BAKER called up **HR 521, PN 2880**, entitled:

A Resolution honoring Dr. Maravene Loeschke, President of Mansfield University.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—196

Adolph	Ellis	Knowles	Rapp
Aument	Emrick	Kortz	Ravenstahl
Baker	Evankovich	Kotik	Readshaw
Barbin	Evans, D.	Krieger	Reed
Barrar	Evans, J.	Kula	Reese
Bear	Everett	Lawrence	Reichley
Benninghoff	Fabrizio	Longietti	Roae
Bishop	Farry	Maher	Rock
Bloom	Fleck	Mahoney	Roebuck
Boback	Frankel	Major	Ross
Boyle, B.	Freeman	Maloney	Sabatina
Boyle, K.	Gabler	Mann	Saccone
Bradford	Galloway	Markosek	Sainato
Brennan	Geist	Marshall	Samuelson

Briggs	George	Marsico	Santarsiero
Brown, R.	Gerber	Masser	Santoni
Brown, V.	Gergely	Matzie	Saylor
Brownlee	Gibbons	McGeehan	Scavello
Burns	Gillen	Metcalfe	Schroder
Buxton	Gillespie	Metzgar	Shapiro
Caltagirone	Gingrich	Miccarelli	Smith, K.
Carroll	Godshall	Micozzie	Smith, M.
Causar	Goodman	Millard	Sonney
Christiana	Grell	Miller	Staback
Clymer	Grove	Milne	Stern
Cohen	Hackett	Mirabito	Stevenson
Conklin	Hahn	Moul	Sturla
Costa, D.	Haluska	Mullery	Swanger
Costa, P.	Hanna	Mundy	Tallman
Cox	Harhai	Murphy	Taylor
Creighton	Harhart	Murt	Thomas
Cruz	Harkins	Mustio	Tobash
Culver	Harper	Myers	Toepel
Curry	Harris	Neuman	Toohil
Cutler	Heffley	O'Brien, M.	Truitt
Daley	Helm	O'Neill	Turzai
Davidson	Hennessey	Oberlander	Vereb
Davis	Hess	Parker	Vitali
Day	Hickernell	Pashinski	Vulakovich
Deasy	Hornaman	Payne	Wagner
DeLissio	Hutchinson	Peifer	Waters
Delozier	Johnson	Perry	Watson
DeLuca	Josephs	Petrarca	Wheatley
Denlinger	Kampf	Petri	White
DePasquale	Kauffman	Pickett	Williams
Dermody	Kavulich	Preston	Youngblood
DeWeese	Keller, F.	Pyle	
DiGirolamo	Keller, W.	Quigley	Smith, S.,
Donatucci	Killion	Quinn	Speaker
Dunbar	Kirkland		

NAYS—0

NOT VOTING—0

EXCUSED—7

Boyd	Keller, M.K.	Payton	Stephens
Brooks	O'Brien, D.	Simmons	

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

The SPEAKER. If we could have the members' attention and request the members to please take their seats and clear the aisles. We would appreciate if the members, if you need to, take a conversation to the back of the hall of the House; appreciate if we could all take our seats and clear the aisles.

**FAREWELL ADDRESS
BY MR. REICHLEY**

The SPEAKER. As we are all aware, there were several of our fellow members who were elected to other positions this past November, and they will be leaving us approximately at the beginning of next year. And as the custom, we certainly like to afford the members the opportunity to make some farewell remarks before the House and to kind of reflect on their time in the House.

The first of these that would like to be recognized is Representative Doug Reichley. Doug was elected to the judge of common pleas, court of common pleas. He was first elected

to the House in 2002, and I would appreciate your attention and we will turn over the dais to Representative Reichley.

Mr. REICHLEY. I noticed your applause was much heartier as I am leaving than any time when I was speaking on the floor, so I appreciate that.

Thank you, Mr. Speaker.

I appreciate the members giving me a few moments of your time on a very, very busy session day in order to allow me to thank a number of people and to offer you a few reflections about my time here in the House.

GUESTS INTRODUCED

Mr. REICHLEY. First off, as I think it is customary for any of us to recognize the folks who really do all the yeoman's work for any of us here in the legislature. To the left of the Speaker's desk are my assistants from the district office; Ken Navitsky and Kathy Lichtenwalner, if you would not mind standing. They, along with Jake Brown, assist me a great deal. Jake is home, having had a newborn son just yesterday, so he was not able to attend. And also, I would like to recognize my long-standing and long-suffering Capitol assistant, Kendra Wiederhold. If she could stand up. She is the one responsible for all those amendments I filed. She wrote them all and filed them all on my behalf. So I certainly appreciate all of Kendra's work.

Also, I want to thank all the committee staff who helped me over the last 9 years, and most especially the Appropriations staff and Dr. Nolan, and for all the tireless work that his staff put in, as well as all the committee chairmen I served under – Chairman Geist, Chairman Godshall, Chairwoman Harhart, and all the rest.

And last but not least, I want to thank the residents of the 134th District for having the confidence in me to represent them for the last 9 years.

On a personal note, I want to take the time to recognize the members in my East Central Caucus, in particular the Lehigh Valley delegation – the queen of the valley, Representative Harhart, being the dean of that organization, along with Representatives Day, Simmons, Mann, Brennan, Samuelson, Hahn, Freeman, and Emrick – and then also my minority group of the Berks County delegation led by Representative Caltagirone.

And last but not least, I want to apologize for all the people whose seats I bumped into when I was getting up to speak at the microphone so often, most primarily that would be Representative Helm and Representative Brooks.

It is brave to be involved in this kind of endeavor, and I have had a great concern for this chamber and the men and women serving in it, because I believe leadership derives from conviction, not from exclusion of opposing opinions. Too many fall prey to the temptation to appeal to the public or to the media for a short-term gain at the expense of the institution and the long-term health of this body.

I have a great affection for this House and for the rhythms of it, the internal pulse which one detects that you cannot ever really pick up while you are watching our proceedings on PCN (Pennsylvania Cable Network) and all the various personalities that exist here in the House. Because of that affection with which I hold this institution, it troubles me when the House is besmirched by criticism from both those within

and outside our chamber. We obviously have a lot of things to make amends for, but I think overall moving forward we have many things to be proud of as members of this House.

To those who have become so engrossed in cynicism where they turn away from any thoughtful discussion of political issues, I feel that they are missing the entire point of all of our service here in the House and would refer them to Theodore Roosevelt's speech about being in the arena, where he criticizes those who are just critics, who never take the time to really engage in putting themselves at risk for perhaps failure, but also, for the wonderful accomplishments that can come along with satisfaction from gaining some achievements.

I believe that my concern over the prestige of the House and politics in general is not limited to those who criticize us from the outside, but we run the risk of becoming less noteworthy in our service because we fail to listen to each other. To paraphrase Barry Goldwater, defense of principle is not demagoguery, but compromise is not capitulation. And I think if we would work more often to listen to each other, as I was talking with Representative Bill Keller about just yesterday, that would serve us more so in the long run.

Now, to depart from this somewhat solemn set of remarks, I think I have to offer the situation that being in the situation like mine is a lot like being a freshman elected to the legislature, because you get put in a lot of difficult situations. People realize you are on your way out, and not long ago Representative Scavello and I, who share a similar situation being follicly challenged, he approached me because he was going to have to be off the floor, and because of our television cameras around the edge of the chamber, he asked if I would fill in because my bald head resembles his. So I said, "Okay; sure. I will sit in the seat; that is fine." Well, unfortunately, that trend started growing, and I cannot remember if it was Tony or Dave who approached me a little bit later because Representative Denlinger also similarly had to be off the floor but did not want to appear to be not there. So they asked me, "Well, can you fill in for Gordon?" And I said, "Well, Gordon has a full head of hair; I do not." And so they had a solution for that – hold on a second; I am trying to find the bottom of it here – he said, "Well, here. Just go sit in his chair like this." Well, unfortunately, this trend continued, and Representative Schroder similarly had to be away from his desk, and so they said, "Well, can you fill in for Curt?" And I said, "Well, I just look like Gordon." They said, "Well, just turn it around." So therefore, you are right. So you can imagine my trepidation when Representative Harhart called me and said she was going to be off the floor and could I fill in her seat for awhile, and so this was the result. I pointed out to Julie we had one noticeable difference: my mustache. She said, "Well, just turn around, turn away from the camera."

Now, having performed that YouTube moment for everybody, in the future, I just want to say that the issues with which we deal with are very serious, but hopefully, we do not take ourselves too seriously here on the floor.

God bless all of you and God bless the people of Pennsylvania and God bless this House. Thanks very much.

COMMEMORATIVE GAVEL PRESENTED

The SPEAKER. Representative Reichley, it has been a pleasure to serve with you, and you certainly have served your constituents and the people of Pennsylvania in a magnificent way. You have always been a strong advocate for the things you believe in and a fair and even-minded person to deal with as we work our way through this process. It has been a pleasure to serve with you.

We have a commemorative gavel to mark the moment you are leaving the House. I do not know if you can use it on the judge's panel, but anyway, we want to present this to you and wish you the best of luck in your future endeavors.

Mr. REICHLLEY. Thank you very much, Mr. Speaker.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The gentleman from Delaware County, Mr. Adolph, is recognized for the purpose of a committee announcement.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I would like to call a meeting of the House Appropriations Committee in the majority caucus room at the break; immediately at the break. Thank you.

The SPEAKER. The Appropriations Committee will meet in the majority caucus room immediately at the break.

REPUBLICAN CAUCUS

The SPEAKER. The lady from Susquehanna County, Ms. Major, is recognized for the purpose of a caucus announcement.

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus at 12:30. I would ask our Republican members to please report to caucus at 12:30. Thank you.

DEMOCRATIC CAUCUS

The SPEAKER. The gentleman from Allegheny County, Mr. Frankel, is recognized for the purpose of a caucus announcement.

Mr. FRANKEL. Thank you, Mr. Speaker.

Democrats will caucus at 12:30 as well; Democrats will caucus at 12:30. Thank you.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. It would be the intention of the Speaker to recess to the call of the Chair. I do not want to just give you a totally indefinite time, but we will put out an announcement with roughly a half hour's notice, but given the uncertainty of when we will be back, I just figure it is easier to give you a little bit of notice as opposed to picking a time and extending.

RECESS

The SPEAKER. This House stands in recess to the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence of the gentleman from Montgomery County, Mr. Todd Stephens, on the floor of the House. His name will be added back to the master roll call.

BILL REREPORTED FROM COMMITTEE**HB 1232, PN 2835**

By Rep. ADOLPH

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for automated red light enforcement systems in first class cities, for applicability and uniformity of law and for disposition and use of liquid fuels and fuels tax.

APPROPRIATIONS.

SENATE MESSAGE

AMENDED HOUSE BILLS RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 332, PN 2874; HB 333, PN 2875; HB 1052, PN 2822; and HB 1399, PN 2891**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

**HOUSE RESOLUTION
INTRODUCED AND REFERRED**

No. 523 By Representatives BOBACK, BEAR, CALTAGIRONE, COHEN, D. COSTA, DALEY, EVERETT, GEORGE, GINGRICH, HARHART, HARKINS, HEFFLEY, HESS, HORNAMAN, KULA, MAHONEY, MAJOR, MANN, MARSICO, MILLARD, MURT, O'NEILL, PASHINSKI, PICKETT, READSHAW, ROCK, SAINATO, STERN, STEVENSON, TOOHIL, VEREB, VULAKOVICH, YOUNGBLOOD, DeLUCA and GIBBONS

A Resolution memorializing the Congress of the United States in its health care reform decisions to apply the American Cancer Society's guidelines for prostate cancer screening.

Referred to Committee on HEALTH, December 14, 2011.

**HOUSE BILLS
INTRODUCED AND REFERRED**

No. 2078 By Representatives HANNA, BRENNAN, BRIGGS, BURNS, CALTAGIRONE, CONKLIN, D. COSTA, DePASQUALE, FABRIZIO, FRANKEL, FREEMAN, GERGELY, GOODMAN, HALUSKA, HARHAI, HARKINS, JOSEPHS, KIRKLAND, KOTIK, KULA, LONGIETTI, MANN, MATZIE, MIRABITO, MULLERY, MUNDY, MURPHY, M. O'BRIEN, PAYTON, SAINATO, SANTARSIERO, SANTONI, K. SMITH, M. SMITH, STABACK, STURLA, YOUNGBLOOD and GIBBONS

An Act apportioning this Commonwealth into congressional districts in conformity with constitutional requirements; providing for the nomination and election of Congressmen; and requiring publication of notice of the establishment of congressional districts following the Federal decennial census.

Referred to Committee on STATE GOVERNMENT, December 14, 2011.

No. 2079 By Representatives BRIGGS, CARROLL, D. COSTA, CUTLER, DAVIS, GEORGE, GIBBONS, HALUSKA, HARKINS, HORNAMAN, JOSEPHS, SAMUELSON and SANTARSIERO

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, further providing for company finance reports and for additional powers and duties of the Secretary of the Commonwealth.

Referred to Committee on STATE GOVERNMENT, December 14, 2011.

No. 2081 By Representatives TRUITT, KILLION, AUMENT, BARRAR, CREIGHTON, GROVE, HENNESSEY, KNOWLES, LAWRENCE, PAYTON, RAPP, SACCONI, SCHRODER, SWANGER, VULAKOVICH and WATSON

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in charter schools, further providing for funding for charter schools.

Referred to Committee on EDUCATION, December 14, 2011.

SENATE BILL FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bill for concurrence:

SB 730, PN 1848

Referred to Committee on LOCAL GOVERNMENT, December 14, 2011.

The SPEAKER. The House will come to order.

CALENDAR CONTINUED

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2052, PN 2864**, entitled:

An Act amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, in hospital plan corporations, further providing for rates and contracts.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **SB 1276, PN 1780**, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for classification of counties.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **SB 1335, PN 1824**, entitled:

An Act amending the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, further providing for names permitted to be used and for prohibition of adoption, use or advertisement of certain names, titles and descriptions.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

RESOLUTION

Mr. MARSICO called up **HR 522, PN 2876**, entitled:

A Resolution establishing the Task Force on Child Protection.

On the question,
Will the House adopt the resolution?

Mr. **DePASQUALE** offered the following amendment No. **A07698**:

Amend Resolution, page 2, line 17, by striking out "Governor" and inserting
chairperson of the task force and who must be approved by a majority of the remaining task force members within ten days

Amend Resolution, page 3, line 3, by striking out "Governor" and inserting

Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives and the Minority Leader of the House of Representatives

Amend Resolution, page 3, line 4, by inserting after "force"

within ten days, and if a chairperson cannot be nominated and agreed upon by the four members, the Secretary of Public Welfare or his designee shall designate the chairperson

On the question,
Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman has indicated he will withdraw the amendment.

On the question recurring,
Will the House adopt the resolution?

The SPEAKER. Is the gentleman from Dauphin County, Mr. Marsico, seeking recognition on the resolution?

Mr. MARSICO. Yes. Thank you, Mr. Speaker.

The SPEAKER. The gentleman is in order on the resolution.

Mr. MARSICO. I just want to mention the resolution which establishes the Task Force on Child Protection. As you know, recent events require a review of laws and procedures relating to the reporting of child abuse and protection of the health and safety of our children.

The SPEAKER. Will the gentleman suspend just one minute.

If we could have the members' attention. Kindly hold the conversations down, please. If the members would kindly take their conversations to the rear of the House, if necessary. Will the members please clear the aisles and take their seats and take the conversations to the rear of the House, please. Will the members kindly hold the conversations down. The House will please come to order. Will the Sergeants at Arms please clear the aisles. You need to hold the conversations down, kindly. Will the members please hold the conversations down. Will the members please take their seats and take the conversations to the rear of the House. The House will please come to order. Will the members please hold the conversations down. The members will please clear the aisles and take their seats.

On the resolution, the gentleman, Mr. Marsico, is in order.

Mr. MARSICO. Thank you, Mr. Speaker.

Once again for the members, this resolution establishes the Task Force on Child Protection. The task force will review laws and procedures that help ensure that the Commonwealth is able to adequately protect its children. After all, it is the responsibility of this Commonwealth and this legislature to protect its citizens, and particularly the children. With this in mind, I have sponsored this legislation along with Chairman Caltagirone to establish a task force to conduct a thorough and comprehensive review to ascertain any inadequacies relating to the mandatory reporting of child abuse, and to restore public confidence in the ability of the Commonwealth to protect the victims of child abuse.

Mr. Speaker, the Senate just yesterday adopted similar, in fact the same, verbiage, the same wording of the resolution, and so we are asking the members to adopt this resolution, HR 522. This resolution was passed out of the Judiciary Committee yesterday. So I ask the members for an affirmative vote. Thank you.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the gentleman from York, Mr. DePasquale, indicated that he does indeed want to offer up amendment A07698.

On the question recurring,
Will the House adopt the resolution?

Mr. **DePASQUALE** reoffered the following amendment No. **A07698**:

Amend Resolution, page 2, line 17, by striking out "Governor" and inserting
chairperson of the task force and who must be approved by a majority of the remaining task force members within ten days

Amend Resolution, page 3, line 3, by striking out "Governor" and inserting
Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives and the Minority Leader of the House of Representatives

Amend Resolution, page 3, line 4, by inserting after "force" within ten days, and if a chairperson cannot be nominated and agreed upon by the four members, the Secretary of Public Welfare or his designee shall designate the chairperson

On the question recurring,
Will the House agree to the amendment?

The **SPEAKER**. On that question, the Speaker recognizes the gentleman from York, Mr. DePasquale.

Mr. **DePASQUALE**. Mr. Speaker, thank you.

I ask for support of the amendment. This basically would make the commission more bipartisan and would make sure that the legislative leaders have a say in who the chair is. And I just believe in this time right now having the Governor have that many appointments and being able to pick the chair would not be appropriate, and giving the majority and minority leaders the ability to pick the chair is good policy and the right thing to do at this time, and I ask for an affirmative vote.

The **SPEAKER**. The question is, will the House adopt the amendment?

On that question, the Speaker recognizes the gentleman from Dauphin County, Mr. Marsico.

Mr. **MARSICO**. Thank you, Mr. Speaker.

I ask for a "no" vote on this amendment. A "yes" vote with this amendment will delay the task force. Yesterday, like I said, the Senate passed this task force resolution and the Senate went home. So if we vote "yes" for DePasquale, we are going to delay this task force. So I ask for a "no" vote. Thank you.

The **SPEAKER**. The question is, will the House adopt the amendment?

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. **TURZAI**. Thank you very much, Mr. Speaker.

When you do a House resolution, a joint resolution with the Senate, what has to happen is that the Senate and the House have to pass identical resolutions. This resolution was negotiated with bipartisan input, including the Judiciary chairs from both sides of the aisle and with the Senate.

Let me make it clear that the point of the Task Force on Child Protection is to look at laws that ascertain any

inadequacies relating to the mandatory reporting of child abuse, and to restore public confidence in the ability of the Commonwealth to protect victims of child abuse.

Keep in mind we are not an investigatory agency and we are not intent on doing an investigation. That will be handled by law enforcement. What is at issue here is legislation, whether it is needed to increase the protection with respect to mandatory reporting of child abuse and public confidence in the ability to protect victims of child abuse. We are about determining whether to change laws.

This amendment is taking out a component part of lawmaking. We cannot get new laws changed, particularly if we want input. We need to have people who represent the Senate, the House, and the executive branch so that we are all on the same page in a bipartisan fashion to be able to quickly enact the legislative recommendations of this particular task force. In addition, some of the appointees will be people with expertise from the outside. It is important that we have each chamber represented on the task force. It is important that the executive branch be on the task force, and it is important that we have outside expertise to guide those individuals in recommending changes to the law in order to ascertain inadequacies relating to the mandatory reporting of child abuse.

It is a significant mistake on two fronts to pass this amendment. You will be taking away one of the important components under our constitutional democracy, or our democracy under our Constitution, needed to pass laws in an expeditious manner: the executive branch.

And secondly, we need to pass the same concurrent resolution that was passed by the Senate and that was negotiated by, in a bipartisan fashion, the Judiciary chairs for both chambers.

Please vote "no" on the DePasquale amendment. I know it is well-intentioned, A7698 – I apologize to the good gentleman from York – I know it is well-intentioned, but our goal here is to determine what laws need to be changed, and we need input from the House, the Senate, the Governor's Office, and outside experts. Please vote "no" on amendment 7698.

The **SPEAKER**. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. **DERMODY**. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman's amendment is very important for the credibility of this resolution and this commission. It would help avoid the appearance of any conflicts of interest. The people, the citizens of this Commonwealth, must have complete confidence, full confidence in the work of this commission. This amendment will lead to the people of the Commonwealth having confidence in this commission, because it avoids the appearance of any conflict of interest. I urge the members to vote "yes" on this amendment. Thank you, Mr. Speaker.

The **SPEAKER**. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. McGeehan.

Mr. **McGEEHAN**. Thank you very much, Mr. Speaker.

Mr. Speaker, I rise to support the DePasquale amendment.

Mr. Speaker, I have heard the majority leader speak on the need to be consistent with the Senate. I would say more

importantly than being consistent with the Senate would be the absolute widest protection for children and the widest participation of members on that commission. That is the fundamental concern that this House should have, not whether we agree with the Senate, not whether the Governor has 3 or 4 or 6 or 10 appointments. It is getting the wide swath of opinions from people who are advocates in the sexual abuse arena, advocates for victims; it is getting prosecutors; it is getting victims themselves.

Mr. Speaker, this Commonwealth more than any other in the last 5 years has been rocked – yes, rocked – by some of its most venerable institutions being exposed for harboring and abetting the worst child sexual abuse that anyone could ever read of, whether you are talking about the Archdiocese of Philadelphia or whether you are talking about the systemic abuse that was aided and abetted by the administration at Penn State.

I am not concerned how many the Governor, how many appointments are garnered to the Governor. I am concerned with the final product, and what goes into that final product are the human experiences that we should worry about and that we should benefit from as a body when we deliberate laws. So I am not concerned with being consistent with the Senate, Mr. Speaker. I am concerned with getting it right and making sure these atrocious abuses never happen again. The DePasquale amendment does just that. It expands the scope of people whom we bring into this conversation.

I cannot think of one expert in the House or the Senate in dealing with the psychological and emotional scars of victims, but in my advocacy in the last year, I have met hundreds, hundreds who have spent decades in this field who have more authority and have more experience than any Governor and any Senator in this House, in this building. They are the people we should have on this commission, and the DePasquale amendment does just that. It says we are going to broaden the commission to include people who know what they are talking about, who know what is best for victims, who know not just whether we should report abuse when we see it, more importantly and just as importantly, how do we prevent it. The only way we do that is stop the political shenanigans, stop the insider dealings in this House and the Senate, stop the good-old-boy network, shake this Commonwealth to its foundation, and do what is right for these victims.

I ask for an affirmative vote on the DePasquale amendment.

The SPEAKER. The question is, will the House adopt the amendment?

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, it was said that we need to pass the exact same language as the Senate did because we want to expedite this. Well, the last time I checked, the Senate is still in and in session, and we can pass anything we want to and the Senate can adopt the same thing later tonight. There is not a problem with that.

It has also been stated that the reason we need to have it be the same is because these people are going to advise us on laws that we ought to pass and that somehow if the language in our resolution is not exactly the same as the language in the Senate resolution, that they will not be able to adequately give us guidance on what legislation needs to be passed. That is just false. We actually do not need any commission in order to determine what legislation needs to be passed.

This commission, when it was first discussed on the floor of this House as a potential commission, was discussed in light of the allegations in Penn State, and so part of this needs to be done in the context of the allegations of Penn State. And the DePasquale amendment says, let us do this in a bipartisan fashion. Let us ensure that everyone is involved and that the advocates that are necessary that the previous speaker talked about are there.

When you look at the bill as it stands right now without the DePasquale amendment, it says that three members get appointed by the Republican leader of the Senate, and three members get appointed by the Republican leader of the House, and four members get appointed by the Governor, who, by some people's account, dragged his feet on the case in Penn State; and that the Secretary of Public Welfare, who was appointed by the Governor, is on the committee. That taints the committee from the start, and the last thing that we want to do in this arena is to taint a committee that is dealing with something as important as child abuse, but that is what the committee as it is currently established under the resolution would do, and the DePasquale amendment removes that taint.

I urge a vote for the DePasquale amendment. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Centre County, Mr. Conklin.

Mr. CONKLIN. I want to thank you, Mr. Speaker.

May I just ask the maker of the amendment just a quick question to help clarify again?

The SPEAKER. Will the gentleman, Mr. DePasquale, stand for interrogation? He indicates he will. You may proceed.

Mr. CONKLIN. I want to thank Mr. DePasquale.

I just have a quick question. Just clarify one more time for me how this is going to change the makeup, because when I sat here and I listened to my colleagues talk about this a few weeks ago, the idea of this was to get politics out of this, was to make this an open discussion that the people could be involved with, that experts would be involved with, and at the end of the day, we would not have to worry about a gerrymandered type of decision being made by one affluent party. Can you tell me how this could change that?

Mr. DePASQUALE. Thank you, Mr. Speaker.

The noise level is a little loud, but I believe the question was, how would this amendment change the makeup of the commission?

Mr. CONKLIN. Yes.

Mr. DePASQUALE. I believe that is the question?

Mr. CONKLIN. Yes.

Mr. DePASQUALE. Instead of having the Governor have more of a say, I merely changed that to having the majority and the minority leaders, to try to make this commission more independent and more bipartisan.

Mr. CONKLIN. So basically, to get this right, in the open of transparency, in the open of doing a fair investigation – and I know that if we have one particular sect of individual, they would never gerrymander a decision to be able to come up with a solution that they feel would be most beneficial – what you want to do is to be able to take this amendment and make sure that nonpartisan experts, and I want to say the word "experts," in this field are on this panel?

Mr. DePASQUALE. Mr. Speaker, I have full confidence that the two gentlemen from Allegheny, the majority and the minority leaders, would pick the right people to lead this commission.

Mr. CONKLIN. Thank you, Mr. Speaker.

That is all I have for the maker of the amendment, Mr. Speaker.

If I may, may I just make a couple comments on the amendment?

The SPEAKER. The gentleman is in order on the amendment.

Mr. CONKLIN. I think it is so important for this body to look at what we are doing. In light of allegations that have been made recently at Penn State University, I think it so important that any committee we put together has no look of partisanship to it. I think it is important that any committee we put together is absolutely 100 percent foolproof of political influence, and I know that the individuals would never sway political influence in any way to do this – or I hope they would not – but at the same time we cannot afford as a body to go forward with any type of committee that can be perceived as other than open and nonpartisan.

So I am asking my colleagues to please support this DePasquale amendment. All this does is makes sure that the public is rest assured that we are doing it strictly for open and transparency through this process.

I want to thank the Speaker, and I want to thank Mr. DePasquale for being forthright in coming through with this.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the lady from Philadelphia, Ms. Bishop.

Ms. BISHOP. Thank you very much, Mr. Speaker.

May I have order, please? Mr. Speaker, may I have order, please?

The SPEAKER. The hall of the House is a little bit loud tonight. If I could ask the members to please take their seats, clear the aisles. If we could clear the aisles and break up the conversations. The members will please take their seats and take the conversations to the rear of the House, please.

Ms. BISHOP. Thank you, Mr. Speaker.

The SPEAKER. Will the lady just suspend for another second, please.

If we could take the conversations to the rear of the House, please. Thank you.

The lady may proceed.

Ms. BISHOP. Thank you, Mr. Speaker.

Let me begin by making a correction for the name of the subject that we are debating now. It is not child abuse; it is sexual child abuse. There is a difference.

I rise to support the DePasquale amendment, and I rise to support it on behalf of the hundreds and maybe thousands of victims in the Commonwealth of Pennsylvania who have suffered at the hands of this sexual monster that is loose even today.

And it is time now for us to address this issue, not put it away. It is one of the most important issues that we could address today. It has been buried under the rug long enough and enough people have suffered over the years in shame, not able

to come forth to tell about their experiences. There are members right in this House tonight; if they were strong enough, they would stand up and tell you now is the time. They have suffered long enough. I happen to know that there are also members in the Senate; I cannot say members, but I can say member in the Senate who has suffered at the hands of sexual child abuse.

It is time for us to come forth, address the issue, see it for what it is, bring it out of the darkness into the light, put in place legislation that will control and arrest those who are continuing to perpetrate young children.

And I just want to say one last thing. Usually an abuser is one who has been abused. So we have no way of treating or knowing who they are or who they will become until we put in place a process that allows experts. And when you talk about experts, Mr. Speaker, I do not know whom you are talking about, but the experts are those who have had people forcing their will upon them for years. Some of those experts should be allowed to speak and tell others what it is like. I can tell you from self-experience, there is no other act that is more horrible than to have someone forcing themselves upon children who grow up with this, feeling a lack of self-esteem.

So if you are concerned about your children, your grandchildren, your wife, your sisters, your sons, and your grandsons, this is your opportunity. Support the amendment that will give us the time and give us the people who will move in a quick and a fair manner to bring this – address this issue the way it should be addressed. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Petri.

Mr. PETRI. Thank you, Mr. Speaker.

Mr. Speaker, we need this amendment and we do not need this amendment both at the same time. We do not need the amendment, because the truth is there have been bills in this chamber that have sat dormant for session after session after session, and they dealt with child abuse and they were not dealt with, or at times they were dealt with through the administration. And I will say the task force did hard work outside our chambers, and the task force has really moved the issue along. And if we were listening to the people that are on the ground, they could tell us exactly what we should be considering and doing.

And so to the extent that this bicameral process will provide that expertise to members so we know what measures we should be taking up and dealing with, I think it is important and I certainly support it. But make no mistake, it is basically in order to make us all feel good, in order for us to sit back and say, hey, we did something. The real test is going to be, when the recommendations come forward, are you ready to put up the vote that needs to be done to protect the children?

Look, there have been plenty of broken promises within the Governor's Office about this issue. We could have dealt with some of the things. Let us move the issue along. Let us not argue over who is going to be chairman, who is going to be vice chairman, who is going to pat whom on the back. Let us name the people that need to be named, get the thing going, and get the issue on the table. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from York County, Mr. DePasquale, for the second time.

Mr. DePASQUALE. Thank you, Mr. Speaker.

I want to appreciate the debate from colleagues on both sides of the aisle. I think this has been healthy. Obviously, we are going to a vote here.

Just a couple points in conclusion. I have heard this again in this debate, I have heard it in other debates, well, this is not what – we have to do what the Senate wants. As we showed with the texting ban, I think we ended up with a much stronger texting ban because we did not go along with what the Senate wanted. I think that my amendment, if it is included, will make this resolution stronger and will get us to a better final product. That is number one.

Number two, I believe by having this commission be independent and bipartisan through the good work of I believe the minority and majority leaders, and I know that they would work together to appoint the appropriate people, will make sure it is independent.

Number three, nobody – this is a system of our checks and balances – nobody gets to investigate themselves. That is why this commission must be independent and the Governor cannot be the one that controls the chairmen and the majority appointments on this commission.

Finally, regardless of where you stand on that, I just believe that we are a system that we make sure that no one person, no one person – whether it be the Governor, a Speaker, a Senate leader, or any private citizen – our system is one that no one is to have too much power in our system. And I believe the way this resolution is crafted, the Governor gets too much power, and I believe my amendment would ensure that power is diluted by making sure that we have a bipartisan, independent commission, because I believe in the good work of the majority and minority leaders and their relationship and their strength, that they would work out to get good people on this commission who are independent and will make sure that the investigation is full, is broad, and goes wherever the facts lead us.

So again, I ask for a "yes" vote on the resolution. Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendment?

(Members proceeded to vote.)

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leave of absence and recognizes the majority whip, who requests a leave of absence for the gentleman from Erie County, Mr. John EVANS, for the remainder of the day. Without objection, the leave will be granted.

CONSIDERATION OF HR 522 CONTINUED

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—94

Barbin	DeLuca	Keller, W.	Preston
Bishop	DePasquale	Kirkland	Ravenstahl
Boyle, B.	Dermody	Kortz	Readshaw
Boyle, K.	DeWeese	Kotik	Roebuck
Bradford	Donatucci	Kula	Sabatina
Brennan	Evans, D.	Longietti	Sainato
Briggs	Fabrizio	Mahoney	Samuelson
Brown, V.	Frankel	Mann	Santarsiero
Brownlee	Freeman	Markosek	Santoni
Burns	Galloway	Matzie	Shapiro
Buxton	George	McGeehan	Smith, K.
Caltagirone	Gerber	Miccarelli	Smith, M.
Carroll	Gergely	Mirabito	Staback
Cohen	Gibbons	Mullery	Sturla
Conklin	Goodman	Mundy	Thomas
Costa, D.	Hackett	Murphy	Truitt
Costa, P.	Haluska	Murt	Vitali
Cruz	Hanna	Myers	Wagner
Curry	Harhai	Neuman	Waters
Daley	Harkins	O'Brien, M.	Wheatley
Davidson	Hornaman	Parker	White
Davis	Johnson	Pashinski	Williams
Deasy	Josephs	Petrarca	Youngblood
DeLissio	Kavulich		

NAYS—102

Adolph	Fleck	Maher	Reese
Aument	Gabler	Major	Reichley
Baker	Geist	Maloney	Roae
Barrar	Gillen	Marshall	Rock
Bear	Gillespie	Marsico	Ross
Benninghoff	Gingrich	Masser	Saccane
Bloom	Godshall	Metcalfe	Saylor
Boback	Grell	Metzgar	Scavello
Brown, R.	Grove	Micozzie	Schroder
Causar	Hahn	Millard	Sonney
Christiana	Harhart	Miller	Stephens
Clymer	Harper	Milne	Stern
Cox	Harris	Moul	Stevenson
Creighton	Heffley	Mustio	Swanger
Culver	Helm	O'Neill	Tallman
Cutler	Hennessey	Oberlander	Taylor
Day	Hess	Payne	Tobash
Delozier	Hickernell	Peifer	Toepel
Denlinger	Hutchinson	Perry	Toohil
DiGirolamo	Kampf	Petri	Turzai
Dunbar	Kauffman	Pickett	Vereb
Ellis	Keller, F.	Pyle	Vulakovich
Emrick	Killion	Quigley	Watson
Evankovich	Knowles	Quinn	
Everett	Krieger	Rapp	Smith, S.,
Farry	Lawrence	Reed	Speaker

NOT VOTING—0

EXCUSED—7

Boyd	Evans, J.	O'Brien, D.	Simmons
Brooks	Keller, M.K.	Payton	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House adopt the resolution?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Stephens.

Mr. STEPHENS. Thank you, Mr. Speaker.

Mr. Speaker, this resolution is obviously very important. It is very important that this task force be created as soon as possible and that they get right to work.

I voice some concerns about the timeline proposed in the resolution. I am concerned that delivering a report by November 30 is a little too long. I would urge in the strongest possible terms that this task force get to work immediately and deliver a final report to us sooner rather than later so that we can get about the business of implementing the legislative changes to protect the children of Pennsylvania.

In addition, Mr. Speaker, I would just hope that some of the bills that are out there to make some small incremental changes in the child abuse reporting laws would be considered before that task force finishes their work so that we can at least get some incremental changes in place to protect the children of Pennsylvania.

But I just wanted to rise in support of the resolution and make those two requests as it relates to the task force. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. McGeehan.

Mr. MCGEEHAN. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the sponsor of the resolution stand for brief interrogation.

The SPEAKER. The gentleman, Mr. Marsico, indicates he will stand for interrogation. You may proceed.

Mr. MCGEEHAN. Thank you, Mr. Speaker.

Mr. Speaker, I want to preface my interrogation by thanking the chairman of the Judiciary Committee for taking this bold step. It is much needed, and his efforts are much appreciated.

I did see the narrow scope, and I want to clarify this, if I may, with you, Mr. Speaker. The mission of the task force is recommendations to improve the reporting of child abuse, and two, the recommended changes in State policies, practices, and procedures to accomplish this goal.

Mr. Speaker, I am concerned that the scope of this commission will be narrow as it relates to the reporting of child abuse rather than the prevention of child abuse and the bringing to justice of those who perpetrate child abuse. So I am wondering if you could clarify that for me, Mr. Speaker.

Mr. MARSICO. Mr. Speaker, the scope is the task force will restore public confidence in the ability of the Commonwealth to protect victims of child abuse. So, I mean, that is the main purpose of the task force. And it will be up to the task force then to determine, look at the laws, the existing laws and policy, and to see if there are any more, any laws or proposals that would affect child abuse and affect those procedures and policies.

Mr. MCGEEHAN. So, Mr. Speaker, you are saying that the scope of this task force is not just improving the reporting of child abuse. Is that what you are telling me, Mr. Speaker?

Mr. MARSICO. Well, once again, Mr. Speaker, the powers are to examine and analyze the practices, the processes, and the rules relating to the response of child abuse; to review and analyze law, procedures, policy, and rules relating to the reporting of child abuse; and to hold public hearings and take

testimony and request documents and to take testimony under the oath or affirmation administered by the chairperson of the task force.

Mr. MCGEEHAN. Thank you, Mr. Speaker.

I am done my interrogation. May I speak on final passage?

The SPEAKER. The gentleman is in order, on the resolution.

Mr. MCGEEHAN. Thank you, Mr. Speaker.

Mr. Speaker, I have heard from other members who had a concern that – and this is no reflection, obviously, on the prime sponsor – but have a concern that the scope of this commission will not be broad enough to sufficiently address not only the incidences of childhood sexual abuse but also the aftermath of the devastation of childhood sexual abuse.

Mr. Speaker, we had three grand juries in Philadelphia that examined some of the most monstrous, evil individuals in this Commonwealth's history, and the recommendations of the Philadelphia grand juries, three of them, found profound institutional culpability in that abuse. And the grand jury made several recommendations. One of those recommendations, Mr. Speaker, is a bill that I have that would require a lookback, opening a 2-year window for children who have been abused in the past, to bring the accused perpetrators to court and to find out once and for all how and why that abuse occurred, who knew about that abuse, and how we bring those individuals to justice.

Mr. Speaker, I am concerned that that issue, that recommendation from a grand jury in Philadelphia, will not be analyzed by this commission, and if that is the case, Mr. Speaker, that is a travesty. That compounds the crime, the appalling crime that happened to those children in that instance. To ignore the recommendation of a grand jury in Philadelphia, who heard over 300 witnesses, I think would do a disservice to this House, to this body, and to the legacy, to the legacy of this institution.

Mr. Speaker, I would ask, particularly my leader, to exercise his influence in appointing people who will strenuously interject the recommendations of the Philadelphia grand juries into this commission. There cannot be a whitewash by this commission. There cannot be one stone left unturned. There cannot be one house that is left untouched. There cannot be one venerable institution that we leave alone. There cannot be one glorified individual, whether it be a cardinal or a head coach, that goes unscrutinized, and if they are guilty, unpunished.

Mr. Speaker, I am going to vote for this resolution with the proviso that me and my colleagues, the victims whom I have been working with, the advocacy groups that I have been working with in the last year, are not going to go silently. We are not going to be ignored by this commission, Governor or no Governor.

Mr. Speaker, the abuse that we have read of and we read almost every day cries out for justice, cries out for action, and this is a good first step. But we have to, as a body, maintain our vigilance about the scope of this commission. Thank you very much.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Berks County, Mr. Caltagirone.

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

For the benefit of the members of this House, the attorneys that were involved from both sides in both chambers did try to

get this resolution, to the best of their ability, to suit the issues that everybody wants to have addressed.

Let me just say this: We are a country of law. We are based on our Constitutions, both Federal and State, and they do protect the rights of both the perceived guilty as well as the innocent. But let me also say that in this look that is going to take place by this commission, they certainly should look at the public schools in this State, because we have documentation, plenty of documentation, on the public schools.

That being said, I do not disagree with wherever this commission is going to go with this investigation, but it needs to be fair and present the evidence to this body for the changes in the laws that we are looking at. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Neuman.

Mr. NEUMAN. Thank you, Mr. Speaker.

I am rising to support this task force. As it stands, the amendment did not pass. This task force I believe will give us a broad understanding on the way we need to change laws.

But this task force is not specific enough to address the problem that we had at Penn State. In order to do that, we need a task force that is independent from the Attorney General, a task force that has subpoena power, and a task force that has independent counsel to advise them. So I encourage either to enhance this bill by adding those provisions or running a true investigation and running another task force to deal with the specific issues that we saw occur at Penn State.

So I do rise in support of this, and I hope that it brings great change to our laws and protects children, but we do need to address the issue. A true investigation has subpoena power and it has independent counsel that will allow us to investigate what happened at Penn State and make additional changes to the problem that we just saw.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Will the maker of the resolution rise for brief interrogation?

The SPEAKER. The gentleman from Dauphin County, Mr. Marsico, indicates he will stand for interrogation. You may proceed.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, I have a question dealing with the intent here of the resolution, because I believe a lot of this is how you interpret some of these. Earlier I had criticized the fact that the Speaker and the Senate pro tem are the only ones making appointments, but I can also interpret that that they may make appointments that I would find perfectly reasonable.

What I want to know, though, is, in the resolution you talk about "restoring public confidence in the ability of the Commonwealth to protect the victims of child abuse." Just prior to that, it says that the commission will "ascertain any inadequacies relating to the mandatory reporting of child abuse...."

Now, as I understood it, particularly as it related to the incidents in State College, there was reporting. The concern that the public has, that we want to restore confidence in, was that after it was reported, it took 2 years, 3 years, before an arrest

was made. The question is, will this commission look into the delays in the time from reporting to actual arrest, because that is, I think, where the public was completely dismayed.

Mr. MARSICO. Mr. Speaker, the reason for this task force is to restore the confidence to the people of Pennsylvania, to look at the laws and policies and procedures that we have in place. And if we need new proposals, new legislation, then we could, and the task force comes back with that, then we could look at those recommendations.

You know, you mentioned Penn State. I have got to make this clear: The task force is not being established to investigate that Penn State scandal. Its mandate is broad and includes looking into all forms of child abuse, not just child sex abuse. Now, for example, according to the Department of Public Welfare, the 2010 annual report on child abuse, 33 children died as a result of child abuse or neglect that year. There were 43 children who died the previous year. Almost 3700 incidents of child abuse were substantiated either by court findings or evidence gathered by a county agency or the DPW regional office. The task force would no doubt allow and want to know how and why those tragedies happened and where the system may have been broken down to allow that.

So just to make it clear, I mean, that is the main point of establishing the task force.

Mr. STURLA. Mr. Speaker, if I could ask the question one more time.

Mr. MARSICO. Mr. Speaker, I—

The SPEAKER. The gentlemen will suspend.

It is very difficult to hear. Could we please take the conversations to the rear of the House. Will the members please take their seats.

There is a lot of extra staff around the floor. I would ask the staff that are not necessary immediately or currently to leave the floor of the House. It is just hard to hear. I apologize to the members.

Will the members please break up the conferences. Will the members please break up the conferences. The Speaker thanks the members.

Will the gentleman continue with his interrogation.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, so again I will ask the question: Whether it is sexual abuse or whether it is child abuse of any form, the resolution says that the commission should "ascertain any inadequacies relating to the mandatory reporting of child abuse...." The public is concerned about, once that reporting gets done, what happens? Would it be your intent with this resolution to have the commission look into the timeframe after that report actually gets made and how these people actually get prosecuted, or would that be off the table?

Mr. MARSICO. Well, that is up to, Mr. Speaker, that would be up to the task force. And with regard to the timing of prosecution and investigations, that would be up to the district attorneys of this Commonwealth.

Mr. STURLA. So I take that as a no.

Thank you, Mr. Speaker.

Mr. Speaker, I would hope and urge any task force that gets put together to look into that, because that is truly the only way, I believe, you can restore public confidence. I guess the proof will be in the pudding as to what it is that the task force reports back, if in fact it is a whitewash, as some people said. It might be where we just simply say, yes, we need to report more, and then those reports sit on shelves and nobody ever gets

prosecuted. We will have done a great disservice to not only the children of Pennsylvania but to restoring public confidence.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Greene County, Mr. DeWeese.

Mr. DeWEESE. From March of 2009 all the way around until October of 2010 – 18 months; 18 months – Tom Corbett puts 1, 1 investigator out of 779 personnel in the Attorney General's Office, 1 out of 779, and that does not include, that does not include 4600 State troopers; 5,000 law enforcement officers are idle while an alleged serial rapist rampages through Happy Valley.

I was a little late getting to the floor tonight. I was attending a meeting that Governor Corbett had already arranged for me outside the building. But subsequent to that meeting I found out about the DePasquale amendment. Without the DePasquale amendment, HR 522 is bereft of any aggressive enthusiasms, in my opinion, at the highest level by the men and women in this chamber. We could have had the honorable majority leader, the honorable minority leader. We could have been more involved. Corbett's behavior in that unhappy chapter was ignominious. I did not take Greek, but "igno" without the name. If you did not have a name in ancient Greece, well, you were in a bad way. Some of us are in a bad way, but we still got a name.

I have to think, Mr. Speaker, that this is incredible. This is incredible. In the history of our efforts on child abuse in this chamber, we have a chance tonight to make solid and substantive progress when a Governor, former Attorney General, is absolutely culpable of, in my view, malfeasance, but certainly not aggressive efforts on behalf of those youngsters. Why in the world we did not adopt his amendment is beyond me.

I would ask for a negative vote.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Vereb.

Mr. VEREB. Mr. Speaker, I am very thankful that the good gentleman sat down.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House adopt the resolution?

Those in favor of the resolution— Excuse me.

Is the gentleman from Dauphin County, Mr. Marsico, seeking recognition?

Mr. MARSICO. Mr. Speaker, once again I ask the members for a "yes" vote. A "no" vote on this resolution is a vote against children. Thank you.

The SPEAKER. The question is, will the House adopt the res— The House will come to order. The House will come to order. The House will come to order. The House will come to order.

The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. MUNDY. Mr. Speaker, I had no intention of standing up until that last statement was made. And I even, frankly, was considering voting for this resolution, as the gentleman said, even though it is bereft of any real substance. How in the world do you expect us to take seriously a commission that is stacked

on behalf of one party, on behalf of the Governor, whose actions should be investigated with regard to all of this, that the House Children and Youth Committee would do a better job than this commission that we are establishing through this resolution. It would be bipartisan. We would have people from all walks of life participate in it.

To say that a vote against this silly resolution that will probably accomplish very little is a vote against children is absolute nonsense. But you have convinced me that that is exactly how I will vote, against a resolution that has so little substance as to be meaningless. It is a waste of time and a waste of money.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

Mr. Speaker, I have followed the particular incidents around the Penn State situation with interest, and what particularly brought my interest, Mr. Speaker, is I happened to be in Denver at an education meeting when the reports began to develop about Penn State, and they talked about a young man who had committed to play football at our State university who rescinded his commitment because of what was happening at Penn State. And then the reporter went on to point out that this legislative body, this legislature and the chairman of the Judiciary Committee, the majority chairman whom she named by name, have bottled up bills to protect children in this State. It is not only here, Mr. Speaker; it is across this country that we are being examined, that we are being held to our accountability.

Now, you can say if we vote against it, we are voting against children, but the real thought on this, the real shame in this is that we have bottled up legislation designed to protect children month after month, and we ought to be ashamed of that, not about voting against this resolution. I think that the statement of the gentleman from Dauphin is an absolute disgrace to this body, Mr. Speaker. I am offended and I think every member of this chamber ought to be offended by it. Thank you.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Thomas. The gentleman will suspend.

The House will please come to order. Members will please take their seats.

Mr. THOMAS. You should have stepped up—

The SPEAKER. The gentleman will suspend just a minute, please.

Will the members please take their seats. If you need to have a conversation, please take it to the rear of the House. Can we hold the conversations down, kindly.

The gentleman, Mr. Thomas, may proceed on the resolution.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I just sat back and I just listened, but, Mr. Speaker, I would ask that the chairman of the Judiciary Committee, the architect of this resolution, needs to publicly apologize for that last comment.

Mr. Speaker, we have repeatedly said that we should never impugn the motives of members of this institution, and, Mr. Speaker, for a chairman, a majority chairman, to stand up – and what bothers me, what bothers me is that whether or not these allegations of abuse at Penn State and at other places, this is not a joke. We cannot ever take it lightly when children who

are powerless, who are without support, who are under the control of folk who are supposed to be in an authority position and they take advantage of them, there should never be any laughter; there should never be any opportunity to try and move away from the issue. And for a majority chairman to stand up and imply that a "no" vote on this resolution is synonymous to a commitment against child protection, that is disgraceful and I want an apology, and the victims of Penn State and victims of other people in this State need an apology. That is wrong, Mr. Speaker, and now is a good time to put a stop to it.

And if the gentleman is not willing to withdraw his remarks, then I say to him to craft a resolution that does not focus on the issue that is confronting all of us; child abuse is one part of it, but when you take the dignity of a human being, when you use your authority to take advantage of a child, it is about more than child abuse. Your resolution does not speak to that. I do not really understand what your resolution is speaking to, but I did not stand up and say anything because I figured that any and all steps, affirmative steps, are good steps toward hopefully bringing about some changes in the Commonwealth of Pennsylvania. I did not do that until and without even knowing which way I was going to vote.

I am ashamed that you stood up and said to me that if I decide to vote "no," then I am not about child protection. Shame on you, and I urge you to withdraw that comment.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. Thank you very much, Mr. Speaker.

To the good gentleman from Philadelphia County, the previous speaker and chair from Philadelphia County, please understand, we recognize that folks can have differences of opinion on the Task Force on Child Protection, and there is no one in this chamber who has any claim over any other person in wanting to protect the children of this State. I recognize that, without a doubt.

We are all good folks here, and everybody is truly taken aback or saddened by the tragedy that occurred at our land-grant university. In fashioning a resolution, it was felt that we were not an investigative body, that law enforcement has the powers of an investigative body and could look in detail at the circumstances that surrounded the incident and determine the wrongdoing by any alleged culpable parties.

We as a legislative body are better tasked to determine whether the requirements under the law are satisfactory to do really two things in such a way that they act as a deterrent to inappropriate behavior but also as an encouragement to needed protective behavior if you know that something is wrong, and also that if people would violate those duties, that there would be remedies for swift justice given the duties established.

The point of the task force, under this resolution, is to make sure that outside experts are brought to legislative- and executive-appointed individuals to come back with laws, recommendations of laws, that we need to enact in a bipartisan manner in an expeditious fashion.

I will tell you to the extent that three members would be appointed by the Speaker of this House, the good Speaker, an individual in this instance who is above reproach, who will do it in consultation with myself in my position as majority leader and my good friend and colleague from Allegheny County, the

minority leader, that the recommendations, I am sure, from this House will be bipartisan and will be people who can offer up significant expertise in telling us how we should or should not change our laws and the punishment under those laws.

I want to reach out to each and every one of you to tell you that the point of this task force is to do good by this legislative body – Republican, Democrat, each of us as individuals who want to do well in response to the tragedy at Penn State. There is nothing meant here but a good-faith effort. There are zero political motives with respect to this task force. The notion behind including the executive branch was that we felt – Senate, House, Republican, Democrat – that to be able to take the recommendations about legislation and to move expeditiously in a bipartisan fashion on it and then to get the Governor to sign it, that it was important to have all of the branches represented at the table.

Once again, on this particular resolution, there is no political motivation. There is a desire to do well by all the citizens. I am not saying that you could not have put together other ways of doing a task force, but this is a good approach to doing a task force. And I promise you that the minority leader and I will work together in putting forth recommendations to the Speaker, and we will do so in a bipartisan manner.

Thank you very much.

The SPEAKER. The question is, will the House adopt the resolution?

On that question, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, I think we can tell by the tenor of the debate here tonight that while this resolution is fine for what it does – that is, looking into the child reporting requirements for the Commonwealth – that more needs to be done. And I would submit that this resolution does not go far enough, and I think the right thing to do here would be to recommit this resolution to the Judiciary Committee so it can be amended to establish a task force that will not only look into the child abuse reporting requirements in the Commonwealth but also looking to the events that transpired at Penn State.

And it should be modeled after the Interbranch Commission on Juvenile Justice. That commission was established to look into the "kids for cash" problems that we had in Luzerne County. That commission did a fine job. It was independent. It was not a bunch of politicians. It looked into the problems in Luzerne County and came back with an impeccable report. That is what is needed here.

MOTION TO RECOMMIT

Mr. DERMODY. This resolution does not go far enough. That is what should happen. So I make a motion, Mr. Speaker, to recommit this resolution to the House Judiciary Committee for the purposes of amending that resolution to establish a wider investigation that solves these problems.

The SPEAKER. The gentleman, Mr. Dermody, has moved that HR 522 be recommitted to the Judiciary Committee.

On the question,

Will the House agree to the motion?

The SPEAKER. On that question, does the gentleman, Mr. Dermody, seek recognition on the question of recommittal? Do you seek recognition on the question of recommittal?

Mr. DERMODY. Yes, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Dermody, would be in order.

Mr. DERMODY. Thank you, Mr. Speaker.

As I have already stated, this is fine. This resolution is fine for what it does, but it clearly does not go far enough, and we have heard tonight, why not? We have an opportunity here to do the right thing for the children of the Commonwealth of Pennsylvania. We have an opportunity to make sure that what happened at Penn State never happens again. And we can make sure that it is an independent investigation that is above any conflict of interest, that the people of the Commonwealth, the citizens of the Commonwealth, can have confidence in.

Now, the commission that was established to investigate the problems in Luzerne County ended up just that way. There is no reason we cannot establish a commission like that here in this House to investigate what happened at Penn State and make sure that our reporting laws are sufficient to make sure that it never happens again.

Now, if they are not correct right now, if they need to be improved, we can do that. But we can also make sure that things do not happen on campuses across the Commonwealth here ever again. That can be done, and it can be done by recommitting this, getting to work, and coming back with another resolution that establishes a task force that does the right thing.

Thank you, Mr. Speaker.

The SPEAKER. On the question of recommittal, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. The commission or task force that is established under this resolution does exactly what the good minority leader suggests. All those roles and duties will be fulfilled under the body that will be created by this resolution.

The fact of the matter is that too many folks are politicizing an issue that should not be politicized, and we need to change the tenor of the discussion. The fact of the matter is that this is not Republican or Democrat; this is just about creating a task force to look at the duties and requirements and the potential punishment that should exist under Pennsylvania law, and it should be done in the furtherance of protecting the child and in furtherance of giving people, really, the duty or requirement to report when they see that something is inappropriate.

I would ask that everybody not vote to recommit. Let us not politicize this. Let us get the task force in place, get good individuals on that task force, and let them do the duties that are set forth in front of them. I offer to everyone here that this is an opportunity to do well, and there is no reason this task force will not do well. I am convinced they will do their job, and once they do their job, then more importantly, all of us together will do our job.

We enacted legislation in response to the Luzerne County debacle, you know, when the judges were taking money and putting young people in jail to further the pecuniary interests of those judges and certain people that owned those facilities. We reacted and we reacted appropriately in terms of a legislative response. We are going to do the exact same thing here, and this task force will go about giving us those needed recommendations and we will act quickly upon it.

Please vote against the motion to recommit. Thank you.

The SPEAKER. On the motion to recommit, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, had the majority leader just not said what he had, I might have thought, well, there is at least the opportunity to do a commission that would do all the things that are necessary. But the majority leader just said, no, no, no; no other commission or task force. This is it.

Unlike the task force or the commission that investigated the "kids for cash," there is nobody from the judiciary mandated to be on this. Unlike the task force with "kids for cash," there are political appointees on this where there was not on the other task force. And unlike the other commission which came back in a timely fashion, this commission does not need to report back until the end of this session.

So this notion that they are going to get us something so that we can act on it, they are going to get us something so that the next legislature can act on it – this has been part and parcel of what has been wrong with the way this administration does business here: appoint a task force; delay. Once you get the task force, you do not even have to give a timeframe of when you are going to act on it. You just sit on recommendations and you study the issue and nothing ever happens.

Now, had the majority leader said, you know what? Look, I agree; this is kind of a puff piece; it really does not do a whole lot; we are going to get to one that gets to the real meat and potatoes of these issues, but vote "yes" on this one, I might have said, well, okay, this is a throwaway; no problem. But what he said was, no, this is it. This is our only shot at investigating child abuse in the State of Pennsylvania, and it is going to be political and it is not going to be reported back until this session is over. That is a travesty.

I urge a vote to recommit. Thank you, Mr. Speaker.

The SPEAKER. On the motion to recommit, the Speaker recognizes the gentleman from Washington County, Mr. Neuman.

Mr. NEUMAN. Thank you, Mr. Speaker.

I would ask the majority leader to stand for just a couple of questions.

The SPEAKER. The gentleman, Mr. Turzai, indicates he will stand for interrogation. You may proceed.

Mr. TURZAI. Yes, sir.

Mr. NEUMAN. Thank you, Mr. Speaker.

My question basically is, is this chamber going to create a task force that specifically deals with the issue of Penn State like we did with the issue in Luzerne County?

Mr. TURZAI. Yes.

Mr. NEUMAN. Can we expect that task force to come before we leave for break or next year?

The SPEAKER. The Speaker would remind the gentleman that the question before the House is whether or not to recommit. I think I know where you are going.

Mr. TURZAI. Over the course of the year, the task force is to meet as necessary, but no fewer than five times prior to September 30 of 2012, and then a final report needs to be made by November 30 of 2012, although they will be submitting interim reports and recommendations throughout the year.

Mr. NEUMAN. Okay. Thank you, Mr. Speaker.

That was language from the current task force that was developed by the good chairman. Is that correct? I will repeat it.

Mr. Speaker, that language was the current task force we are developing, not a future task force that would deal with specifically Penn State. Is that correct?

Mr. TURZAI. It will certainly look at Penn State and the issues surrounding Penn State, although it will be asking experts, you know, in other States, what do you do, you know, what does your law— And I do not know which States have differing duties, differing duties and differing gradations with respect to the offenses, and differing penalties, but I am quite sure that you will have people who will be able to tell you, say, in Ohio we have this level of duty; this is the gradation of the crime and this is the penalty, and here is how the case law has treated it.

So in that regard, it will take the facts and circumstances that have been publicly vetted and are set forth in the indictment and it will look at those facts and circumstances, and then it will say, look, Pennsylvania law is or is not inadequate with respect to the duties, it is or is not inadequate with respect to the gradation of the offenses, and it is or is not inadequate with respect to the punishments that could be potentially meted out.

There could also be, I must say, laws that are necessary beyond the criminal arena. I do not mean to intimate that this is only criminal. I am sure they are going to be looking at laws from a judicial perspective that are civil as well. But what would be done is you would take the facts emanating from the Penn State case and look at similarly situated facts and then determine, what are the appropriate duties, gradations, penalties under a criminal perspective, and also certain aspects under a civil perspective.

Mr. NEUMAN. Okay. Thank you, Mr. Speaker.

And I think this task force does a great job with making it an umbrella and looking at the whole law, but specifically, will we be forming any type of commission, similar to what we did in Luzerne County, to address the issue at Penn State?

Mr. TURZAI. Mr. Speaker, could you just restate that? I apologize.

Mr. NEUMAN. Yes; sure. No problem.

Will we as a chamber be developing a commission, similar to Luzerne County who also dealt with children, will we be developing a commission similar to Luzerne County that will deal with the issue we are having at Penn State right now?

Mr. TURZAI. Will the specific facts of that incident – I mean, that commission did the exact same thing. What they did is they took the facts of that particular case and they determined what changes needed to be made in that law to prevent not only that specific set of circumstances but similar or related sets of circumstances such that that would not occur again.

They did learn from the specific facts of that case, looked to see if there were other facts or cases that were similarly situated, and then I think that the recommendations were narrowly tailored to what they learned about those particular facts to prevent that abuse from happening again. I see it as really the exact same approach.

Mr. NEUMAN. Okay. Thank you, Mr. Speaker. That ends my interrogation.

Mr. TURZAI. Okay. Thank you.

Mr. NEUMAN. On the motion, Mr. Speaker?

The SPEAKER. The gentleman may proceed.

Mr. NEUMAN. Mr. Speaker, I think it is clear that we will not be having a separate commission to deal specifically with Penn State. Now, yes, this has to be done. We do have to look at

all of the laws, and the task force developed is good for that. But this task force does not handle the issue at Penn State adequately. We either need a separate task force or commission like we did in Luzerne County, and I think everyone can agree that we got a lot of great information from that commission. We need the same type of commission to deal with the issues at Penn State. The way that this resolution is drafted does not handle the issue at Penn State, and if we are not going to address Penn State separately, this resolution needs to be recommitted and needs to be amended to include specific investigation towards Penn State.

Mr. Speaker, I stand before you and ask you to vote "yes" on the motion to recommit so that we do justice and we handle the issue at Penn State specifically, along with the breadth of laws that we need to change dealing with children.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to recommit, the Speaker recognizes the gentleman from Greene County, Mr. DeWeese.

Mr. DeWEESE. Thank you very much, Mr. Speaker.

I have three reasons why I think we should recommit. These are in addition to the ones enumerated by my honorable colleague preceding me at the microphone from Washington County.

Number one, if this commission is going to be anything more than milk toast, we need subpoena power. That is a good reason to recommit – subpoena power. What went on at Penn State was reprehensible, and subpoena power will get to the throat of it.

Number two, I think we need outside counsel and the ability to bring in legal folks from outside our world, and that is another thing that we can do when we recommit.

And third and finally, Mr. Speaker, there should be direct and specifically delineated conflict-of-interest language in the proposal so that anyone who may be ensnared within the umbrella of any investigation – any investigation – would be automatically expelled from this commission. So if you are a member of the board of trustees at Penn State, Penn State comes under investigation by the Federal government, you would be expelled from the commission.

So one more time, we need subpoena power, sir; we need the ability to bring in outside counsel; and we need strong conflict-of-interest language in this proposal so that if someone is being investigated, they cannot be a part of the commission. That seems very, very clarion to me.

A vote to recommit would be a vote for vigorous and aggressive efforts on behalf of this chamber. Thank you, Mr. Speaker.

The SPEAKER. On the motion to recommit, the Speaker recognizes the lady from Luzerne County, Ms. Toohil.

Ms. TOOHIL. Thank you, Mr. Speaker.

With regard to this resolution, it arises directly from Penn State, and on the motion to recommit, we must ask ourselves certain questions. The Penn State scandal weighs heavy on all of our minds. Ask yourself, do the recent events require a review of laws and procedures pertaining and relating to the reporting of child abuse and the protection of the health and safety of our children? Will a review of these laws and procedures help to ensure that the Commonwealth is able to adequately, adequately protect its children? When you ask yourselves these questions, the answer is yes.

Is it the responsibility of the Commonwealth to protect its citizens, particularly its children? Do we need a task force to conduct a thorough and comprehensive review to ascertain any

inadequacies relating to the mandatory reporting of child abuse here in Pennsylvania? The answer is yes. Do we need it now? The answer is yes.

Mr. Speaker, it is absolutely unbelievable and sad indeed that the members of this House that are standing up tonight in protest are those very members that sat silently in the weeks following the Penn State scandal. Do not play politics with our children. This is a bill that passed in a bipartisan and unanimous manner out of the Judiciary Committee this week.

There is no need to grandstand; there is no need to politicize this issue. Mr. Speaker, I ask the members of this House to vote "no" on recommittal. Thank you.

The SPEAKER. On the motion to recommit, the Speaker recognizes the gentleman from Philadelphia County, Mr. Waters.

Mr. WATERS. Thank you, Mr. Speaker.

Mr. Speaker, I want to speak on the motion to recommit, and the reason why I do want to speak on this motion is because I have listened to the debate that has taken place on the floor and I have had a chance to find out and hear what the resolution that my colleague had offered, the amendment that he had offered to the resolution. This is problematic when the resolution gets voted – not the resolution, but the amendment gets voted down, because like my colleague that just spoke prior to me, I also am a member of the Judiciary Committee. I am also someone who was in committee who did vote in favor of the resolution moving out of committee. But in committee we also talked about this resolution was not perfect. That came up on both sides of the aisle, that that resolution 522 was not perfect and some more work needed to be done on the resolution.

We had some agreement from the sponsors of this resolution that we needed to move it forward because we needed to get something started, but it was not the end result. And now that we are here today where we have a chance to enhance and improve and offer some more integrity to the resolution; everybody is saying no, let us go forward with this product, like if it were perfect, like if this is a perfect product, this resolution.

So, Mr. Speaker, yes, we want to get to the bottom of what happened at the Penn State scandal. Yes, we should come up with answers and solutions to make sure that something like this never happens again. But no, we should not have a task force that does not possess the integrity to make sure that it does not look like, and I quote, a "coverup." And I am not saying that it will be, but if we do not have bipartisan or outside people that do not have an interest in the outcome of this, then that will make people question – and have good reason to question – the integrity of this task force.

So what I say is that we should recommit this. It should go back to Judiciary, just like we agreed to do yesterday when it was voted out of committee and agreed that it is a work in progress. But if we vote on this today, then that is saying the work is over in terms of our responsibility of assigning the task force.

Penn State has a wonderful reputation in this Commonwealth, and people come from all over the world to go to Penn State. But now you hear many people saying, in light of what has taken place there, that they are keeping their child home or they are going to send their child somewhere else. If we want to save the reputation of Penn State, we should make sure that we have a thorough investigation that takes place that does not have any innuendo, any hint that there is anything but

strong integrity with this task force. And the only way that we are going to do that with the rest of the Judiciary Committee is to recommit this back so that we can continue to work on it, like members on both sides of the aisle expressed yesterday when this bill came out of committee.

So, Mr. Speaker, I encourage us just to recommit it so that we can have a better chance of coming up with a better resolution, so that we can serve the children who have been harmed and are looking at us right now for justice and are expecting justice to come from this chamber. I say that we should do everything we can to make sure that justice comes out of this resolution and make sure that there is more input from all of us so that we can move forward and get something done here in the House of Representatives.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to recommit, the Speaker recognizes the gentleman from Philadelphia, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, will the majority leader stand for interrogation?

Mr. TURZAI. Sure.

Mr. THOMAS. Thank you.

The SPEAKER. The gentleman is in order, on the motion to recommit.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I recall a few days ago when we first started talking about this Penn State situation, I remember, and I do not have the record right in front of me, but I remember that you made it very clear that we were going to organize a commission similar to the Luzerne commission. If people remember, the problem in Luzerne County was remedied swiftly because there was an interbranch commission established. And so my question is, what happened between now and then that we abandoned the commission idea versus a task force?

Mr. TURZAI. The question presumes that the authors of the resolution or me as majority leader somehow lack integrity and do not want to determine what are the appropriate changes needed in the law to protect children from abuse. This resolution was drafted by the Republican chair of the Judiciary Committee with the Democratic chair of the Judiciary Committee, in consultation with the Republican and Democratic chairs of the Judiciary Committee in the Senate. The goal here is to protect all children by determining what changes need to be made to our laws based on the facts and circumstances of the Sandusky case and other similarly situated cases.

My understanding is that there are four ongoing criminal investigations with respect to the Sandusky case. There are, in addition, investigations by the NCAA (National Collegiate Athletic Association), the U.S. Department of Education, the Department of Public Welfare, and the Centre County Children and Youth. The purpose of this task force is to mete out justice, and the people who put together this resolution, including the Republican and Democratic chairs, looking out not in a partisan fashion but in a completely bipartisan fashion, is to do right by the children of Pennsylvania. To impugn my integrity or anybody's integrity with respect to a task force is completely inappropriate, and the fact of the matter is, it was done working between the two caucuses.

I think that taking the opportunity to intimate that somehow me or the good chair from Dauphin County or the good chair from Berks County are not caring about the kids of Pennsylvania or that we do not want to find this task force to give us good recommendations on how we change the laws is

completely inappropriate and mistaken. I cannot believe that in any fashion that somebody is trying to question the motivations behind this task force. I do not think that any of the suggestions that have been proffered are going to do one thing to change what the outcome of the recommendations of this task force will be.

Mr. THOMAS. Mr. Speaker?

Mr. TURZAI. People who investigate—

Mr. THOMAS. Mr. Speaker?

Mr. TURZAI. May I finish? People who investigate these particular circumstances, those investigations are occurring. What we want to do is to protect children in a fashion by changing laws, and why would this task force not do that?

Please vote against the motion to recommit.

Mr. THOMAS. Mr. Speaker, let me set the record straight. There was no effort to impugn—

The SPEAKER. The gentleman will suspend.

I think we understand the point you are making. I am trying to, you know, give a little leeway, but we do need to try to stay on the purpose—

Mr. THOMAS. Recommittal.

The SPEAKER. —the subject before us, and why or why not the resolution should be recommitted, and the gentleman may proceed.

Mr. THOMAS. And, Mr. Speaker, I appreciate that.

I asked the question with respect to recommittal because, number one, I remember the majority leader indicating that we were going to establish a commission. I felt good about it because I know that a commission carries a different picture than a task force.

Secondly, I know that an interbranch commission or a commission, and I think somebody mentioned blue-ribbon commission, more often than not would carry subpoena power. Task forces cannot carry subpoena power, and within the context of the resolution, there is no subpoena power.

Number three, task forces are not designed to be investigatory. They are working groups. Commissions and other bodies give you some investigatory authority.

And last but not least, the reason that this should be recommitted, why, why should the children of Pennsylvania, why should the victims of Penn State, have to wait until September of 2012 to get a report? A month, two months, a month 45 days after September 2012 we might have a different body here in the House. And so task forces by their very nature are not bound by any recommendations that come out of them. And so, Mr. Speaker, this issue requires swift, prudent, and decisive action. We cannot afford to wait until September 2012.

Secondly, a task force by its very nature will not bring the kind or restore the kind of confidence that we are saying that we want to bring out of this.

Thirdly, a task force by its very nature cannot achieve the justice that we have said to the public of Pennsylvania that we can achieve through this resolution.

And last but not least, we recognize that there are other investigating bodies out there, but I am confident with the talent and skill in this body that we have the talent here to really take a look at this issue and do something about it. We need to do more than study and recommend. We need to do more than listen and not learn.

And for those reasons and a bunch of others, we need to recommit this resolution, and I am confident that it can be recommitted and come out and be ready to go forward within a

few days. I have seen things happen around here at Godspeed. So the fact that it is going to be recommitted does not mean that it is going to get lost or that something bad is going to happen to it. I am convinced that something good is going to come out of it.

Vote "yes" for the Dermody motion.

The SPEAKER. On the motion to recommit, the gentleman from Allegheny County, Mr. Maher, is recognized.

Mr. MAHER. What more can be said on this subject that has not already been said? Those that are interested in a quick disposition and speed puzzle me by asking to slow it down and rerefer it.

We all know where we stand. Let us go ahead and get the work of this task force underway.

The SPEAKER. On the motion to recommit, the Speaker recognizes the gentleman from Philadelphia, Mr. McGeehan.

Mr. MCGEEHAN. Thank you very much, Mr. Speaker.

Mr. Speaker, would the majority leader stand for brief interrogation?

The SPEAKER. The gentleman will stand for interrogation, and I am not picking on you, but we have been a little afield of the motion to recommit and would just ask the member to kindly focus the questions on why or why not the motion to recommit should be supported.

Mr. MCGEEHAN. Thank you very much, Mr. Speaker, for that clarification.

Mr. Speaker, on the motion to recommit, I have a concern and we have heard a lot about the Penn State fiasco, and frankly, a criminal endeavor that had been allowed to operate there for at least a decade involving possibly dozens of victims. But we do not have to look at a commission to know what at least a big part of the solution is, and that came from, as I stated earlier, three grand juries in Philadelphia who dealt not with dozens of victims but with hundreds of victims, hundreds of victims by the most evil, depraved, malevolent people in authority that ever walked the face of the earth, and the grand jury recommended specific changes in Pennsylvania law. I would like to know from the majority leader whether those particular changes, those specific recommendations—

The SPEAKER. The gentleman will suspend.

I am not positive that he was aware you were seeking interrogation. I apologize. That is my fault.

Would the majority leader, Mr. Turzai— The gentleman from Philadelphia, Mr. McGeehan, was seeking to interrogate the majority leader.

Mr. MCGEEHAN. And if I may, Mr. Speaker.

The SPEAKER. I apologize. He just did not understand that you were seeking that, and I am not sure he was listening. No offense.

The gentleman from Philadelphia may proceed.

Mr. MCGEEHAN. Thank you, Mr. Speaker, and thank you, Mr. Majority Leader, for submitting to interrogation.

Just to briefly synopsize what I had just said, there have been many references to the Penn State criminal endeavor that has gone on for at least a decade, but there has been a greater scandal that we do not need a road map to find the solution to. We have had three grand jury investigations in the city of Philadelphia dealing with, again, the most evil, malevolent, depraved individuals that ever walked the face of the earth. They happened to wear a priest's garb. And those recommendations, they have interviewed over 300 victims of these sick, twisted minds, and they made specific

recommendations about what we should do as a body to change Pennsylvania law.

And, Mr. Speaker, you have an appointment to this commission. I am concerned that the recommendations of the grand juries in Philadelphia will not be taken up by this commission, that this commission has a road map already to the exclusion of the very serious and profound recommendations of the Philadelphia grand jury investigation of the Archdiocese of Philadelphia. So my question is pointed, Mr. Speaker. You have an appointment. You may have several appointments, if I am reading the language correctly. I am wondering if those recommendations will be part of these deliberations?

Mr. TURZAI. To the good gentleman from Philadelphia County, I might just start off that I thought, you know, given the bipartisan drafting of the resolution, that everybody wanted to see this task force moving forward. I do not have an appointment to the task force. With the minority leader, we are to consult with the Speaker of the House with respect to the choices made by the Speaker.

Secondly, it has been stressed that there should be an independence of this Task Force on Child Protection, and I am quite convinced, as I indicated earlier, that they will look at the facts and circumstances not only of the Sandusky case but of other similarly situated child abuse instances and recommend to this General Assembly laws that need to be changed for the betterment of the protection of the victims of child abuse.

This is about protecting victims of child abuse, and one of the specifics that must be looked into is, are there any inadequacies relating to the mandatory reporting of that child abuse?

Thank you.

Mr. McGEEHAN. Thank you, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. McGEEHAN. May I speak on the motion?

The SPEAKER. On the motion to recommit.

Mr. McGEEHAN. Thank you very much, Mr. Speaker, and I thank the majority leader for standing for interrogation.

I was referring to the language in the amendment that directs that the minority and majority leaders of the House and Senate to select a task force chair. So if the appointment is not direct by the majority leader, he certainly has great sway in the direction of this committee.

Mr. Speaker, the majority leader spoke exactly to my concern in his remarks about the direction of this task force. He spoke of the recommendations to improve the reporting of child abuse. It is fine to report child abuse, Mr. Speaker; it is another thing to craft laws that prevent them, and to punish those who engage in these despicable acts.

I have asked a pointed question to the majority leader, whether the recommendations – the profound recommendations – of three grand juries in Philadelphia dealing with hundreds of victims, whether they would be addressed, and I still do not know the answer. I do not know the answer from one of the principal players in this task force. So you can guess, Mr. Speaker, that I am a little cynical and a little concerned that this task force already has their roadmap laid before them, and it goes down one line and does not deviate one side or the other, despite, despite the great work and the years that an investigative body, impaneled by two separate district attorneys in Philadelphia, have recommended.

I did not get a straight answer from the majority leader whether the recommendations from those grand juries will be taken up by this task force. That is a problem to me. That is a problem to victims, the hundreds and possibly thousands of victims of clergy abuse throughout this Commonwealth. It is a problem to advocacy groups who advocate on the rights and justice for these victims, and it should be a concern for every single person in this body.

We cannot do this half right. We have got to be together. I heard the admonitions that we should be operating in a bipartisan fashion. Believe me, I want to do that. I have nothing but great respect for the majority chairman of the Judiciary Committee, but in this instance, if they leave out those recommendations, they got it dead wrong. They have it dead wrong, not because I disagree with it; they have it dead wrong because they leave the abusers unpunished, they leave the problem unresolved.

We have a tremendous obligation in this House to speak up for people who could not speak for themselves through decades of abuse, whether it is victims of clergy abuse, whether it is abuse within families, whether it is an abuse of venerable institutions like Penn State. Get it right. That is our first obligation. This task force is starting off on the wrong foot.

I urge that we send it back to the Judiciary Committee and we truly work in a bipartisan manner, and I do not think we would have any consternation or any qualms about voting for it and proceeding to do what we should be doing all along – protecting the health and well-being of young people in this Commonwealth.

I urge a "yes" vote on the motion to recommit.

The SPEAKER. On the motion to recommit, the gentleman from Montgomery County, Mr. Vereb, is recognized.

Mr. VEREB. Thank you, Mr. Speaker.

Mr. Speaker, I have certainly been listening to the debate on the amendment, on the bill. We are listening to the same debate on an amendment to the bill to recommit, and I am assuming when that vote potentially would fail, we are going to debate more of some of the things we heard.

I have heard a lot of things in this motion to recommit, Mr. Speaker, about subpoena power. Well, who are we going to subpoena? The victims? Their families? The perpetrators? As if they are not being subpoenaed by the seven other agencies investigating the criminal act. We hear a lot from folks who have been here, Mr. Speaker, about separation of powers. Are we an investigative arm of government all of a sudden?

Mr. Speaker, on the motion to recommit, I ask everyone to vote "no." We were right next to a vote and there was a statement made, people got upset, and now we want to recommit. Well, if we want to recommit and have a commission start in the middle of January when we are back in session, then I guess that is okay. But I do not think it is okay that we have gone so deep, so far, and so far off of the goals of this House. And is it not to find the inadequacies, loopholes, or other challenges that are out there with the current laws? Is that not what this is all about? I think we all agree it is.

We have a lot of passion in this debate, Mr. Speaker. I urge a "no" vote to recommit. Let the commission do what it is designed to do, and what it does not do, we can still ask questions. We are lawmakers; we are not law enforcers. And in the cries of subpoena power under the Gaming Committee last

session, that did not go too far either, and there is a reason for it: We are not an investigative body, Mr. Speaker. Thank you.

The SPEAKER. On the question to recommit, the Speaker recognizes the gentleman from Centre County, Mr. Conklin.

Mr. CONKLIN. I want to thank the Speaker. And I will try to keep my comments short, because I know it has been awhile.

The only reason I am standing here today is because of some of the comments that have been made on the floor over the last few minutes. And I beg indulgence for some of my colleagues to understand that you are talking about my district; you are talking about my university. And many times we forget that this was not Penn State University that did this or allegedly did this to this child or all these children; this was an individual.

And I know sometimes in the heat of comments, we make comments we may not mean, such as I do not believe anybody who votes against this is voting against children. They are not. They are voting against a bill that they believe could be better. And I do not believe, as was said, that people who sat here and did not get up and speak sat down because they did not believe in children. That was not the reason for it, Mr. Speaker. The reason was, they were sitting back and listening and talking with their vote.

Let us not get off the topic of what we are doing here. The topic is, we want to put together the best commission we can to help out, to find what happened with this institution and to find out how we can better the lives of young people. So I will be voting to recommit this. My vote is not going to be because I am against children, to recommit this. My vote is not going to be because I am sitting here quietly, idly by. The reason I am going to vote to recommit this is because I honestly believe if we would put this back in committee and bring it out in a day, that we could actually make it much better and make this much more open and give everybody an opportunity to be involved.

So folks who recommit are not voting against children. They are not voting because they were quiet. We are simply voting to recommit because we think we can do it better. It does not mean that they will even be against the bill at the end of the day. It simply means we can do better.

Let us do better. Let us recommit it, put it back into committee. And remember when we are talking, there are many of us that take this situation very seriously, and remember, let us just get through this vote, vote on the bill, and let us make it a better bill.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to recommit, we recognize the gentleman from Lehigh County, Mr. Day.

Mr. DAY. Thank you, Mr. Speaker.

About 15 minutes ago I had a point of order, so I will waive off at this point.

The SPEAKER. The Speaker thanks the gentleman.

On the motion to recommit, the Speaker recognizes the lady from Philadelphia County, Ms. Bishop.

Ms. BISHOP. Thank you, Mr. Speaker.

Let me take this opportunity to say thank you to our leadership and to you who have allowed this opportunity tonight for all of us to have an opportunity to express ourselves and to express the views of those that we represent.

I have introduced three consecutive times a bill that removes the statute of limitations, so I am not new at this and this is not the first time I have tried to address this, but for three consecutive terms it has been ignored. So I, like the hundreds and thousands of people in the Commonwealth of Pennsylvania,

want to see some action, and I want to see it now. So I stand, I rise to support recommitment of this bill. Let me tell you why. The number one reason I want to see it recommitted is for our children, the safety of our children. As minority chair of Children and Youth, my number one issue is to protect the children in the Commonwealth of Pennsylvania. And, Mr. Speaker, if I could share, which I would if you need it, if I could share the number of e-mails that I have received from across the Commonwealth, it is almost unbelievable that one issue would draw that kind of attention. My staff, both district and Harrisburg, every day has to address telephone calls from people who simply want to say go for it; keep it up; we are with you. There are hardly any calls that come in opposition or take an opposition to this issue. This issue is far wider than we can imagine, and I think we will all recognize that if we do not do something. There are not just a few people here and there who are concerned; there are people who are all over this Commonwealth that have lived with this for a number of years. Mr. Speaker, may I say that it is not just Penn State. It is not just the Catholic Archdiocese. It is all over in every facet. It is in our homes. It is in our communities. It is in our neighborhoods. It is in our schools. Sexual abuse on children is out of hand. It is a disease that must be dealt with, and it must begin here in the House of Representatives.

So I say again, I have said it before: We have the power to introduce legislation and to bring legislation in to where it does become law. So the law really can work with it. So if we recommit this bill, bring it out right, do it right the second time, we will satisfy the thousands of people in the Commonwealth of Pennsylvania who want to see something in law that protects our children again from that villain that is everywhere out there. That villain is loose. He is raging, and we do not know how to control it except to put the proper law in order and then follow behind it. So let me say, I ask all of you once again for a vote to recommit, and pray that we get it right this time.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to recommit, I think pretty much everybody else has spoken. As the maker of the motion, did you want recognized again?

The gentleman, Mr. Dermody, is recognized on the motion to recommit.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, speed is not the issue here. We need to get this done and get it done right. I think we can recommit this and bring it back to the floor and include in this resolution that it should be done well before November 30 of 2012. As we have heard today so many times that there are several problems with this resolution: The scope is too narrow and there is no subpoena power; it has no subpoena power. And the Interbranch Commission on Juvenile Justice that was established in Luzerne County was established in law. It was a statute. This is not. This is a resolution, has no binding power over the Governor.

In the Interbranch Commission on Juvenile Justice, all four caucuses had appointments. Let us look at the appointments to this 11-member commission. The Governor has four appointments and the Secretary of DPW (Department of Public Welfare), the Speaker has three, the President pro tem has three. Now, the resolution says that the minority leader can consult with the Speaker. I am not suggesting the Speaker would not listen; all I am suggesting is we want to avoid the appearances of any conflicts here. We want to avoid the appearances of a Republican whitewash here. If you look at these appointments,

this commission is in the control of one party. That is not right. That is not what was done in a commission that was successful with the Interbranch Commission in Luzerne County, and it should not be done here.

Mr. Speaker, we recommit this bill. We fix the problems that are clearly in this resolution. We cure those problems. We make this resolution work for all the people of the Commonwealth, for the children of the Commonwealth. It is the right thing to do.

Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—89

Barbin	DeLuca	Kavulich	Preston
Bishop	DePasquale	Keller, W.	Ravenstahl
Boyle, B.	Dermody	Kirkland	Readshaw
Boyle, K.	DeWeese	Kortz	Roebuck
Bradford	Donatucci	Kotik	Sabatina
Brennan	Evans, D.	Kula	Sainato
Briggs	Fabrizio	Longiotti	Samuelson
Brown, V.	Frankel	Mahoney	Santarsiero
Brownlee	Freeman	Mann	Santoni
Burns	Galloway	Markosek	Shapiro
Buxton	George	Matzie	Smith, K.
Carroll	Gerber	McGeehan	Smith, M.
Cohen	Gergely	Mirabito	Staback
Conklin	Gibbons	Mullery	Sturla
Costa, D.	Goodman	Mundy	Thomas
Costa, P.	Haluska	Murphy	Vitali
Cruz	Hanna	Myers	Wagner
Curry	Harhai	Neuman	Waters
Daley	Harkins	O'Brien, M.	Wheatley
Davidson	Hornaman	Parker	White
Davis	Johnson	Pashinski	Williams
Deasy	Josephs	Petrarca	Youngblood
DeLissio			

NAYS—107

Adolph	Gabler	Major	Reese
Aument	Geist	Maloney	Reichley
Baker	Gillen	Marshall	Roe
Barrar	Gillespie	Marsico	Rock
Bear	Gingrich	Masser	Ross
Benninghoff	Godshall	Metcalfe	Saccone
Bloom	Grell	Metzgar	Saylor
Boback	Grove	Miccarelli	Scavello
Brown, R.	Hackett	Micozzie	Schroder
Caltagirone	Hahn	Millard	Sonney
Causar	Harhart	Miller	Stephens
Christiana	Harper	Milne	Stern
Clymer	Harris	Moul	Stevenson
Cox	Heffley	Murt	Swanger
Creighton	Helm	Mustio	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolo	Kauffman	Petri	Turzai
Dunbar	Keller, F.	Pickett	Vereb
Ellis	Killion	Pyle	Vulakovich
Emrick	Knowles	Quigley	Watson
Evankovich	Krieger	Quinn	
Everett	Lawrence	Rapp	Smith, S., Speaker
Farry	Maher	Reed	
Fleck			

NOT VOTING—0

EXCUSED—7

Boyd	Evans, J.	O'Brien, D.	Simmons
Brooks	Keller, M.K.	Payton	

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House adopt the resolution?

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. On the question, the Speaker recognizes the gentleman from Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to make a motion to challenge HR 522 on the basis of constitutionality, based on Article III, section 1 and section 4.

The SPEAKER. The gentleman, Mr. Hanna, raises the point of order that HR 522 is unconstitutional. The Speaker, under rule 4, is required to submit questions affecting the constitutionality of a bill to the House for decision, which the Chair now does.

On the question,
Will the House sustain the constitutionality of the resolution?

The SPEAKER. The Speaker recognizes the gentleman, Mr. Hanna, on constitutionality.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, Article III, sections 1 and 4, require that a House bill have three separate days on the calendar and that it be signed by the Governor. HR 522, on page 3, specifically directs that the Governor selects the chairperson of the task force. In addition, there are other provisions in this resolution that direct administrative officers, that they must carry out specific activities. Mr. Speaker, the House ruled on September 27 of this year that in compliance with Article III, sections 1 and 4, a resolution could not direct an administrative agency to do anything, that that had to be done by bill.

Mr. Speaker, on September 27 you ruled that my resolution, which said that the gas-related ordinance required that certain land shall not be leased for gas-related activities was a direction that directed an administrative officer to do something, and therefore, it had to be done by bill and could not be done by resolution. This bill, this resolution does exactly the same thing on page 3, lines 3 and 4, where it directs the Governor to select the chairperson of the task force. So, Mr. Speaker, based on the precedent that you set forth on September 27 of this year, this resolution is unconstitutional, and I would ask the members to support me in that respect.

The SPEAKER. On the question of constitutionality, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. Mr. Speaker, this resolution is constitutional. It has been passed by the Senate. Please vote that the resolution is constitutional. Thank you.

The SPEAKER. Those voting "aye" will declare the resolution to be constitutional; those voting "no" will declare the resolution to be unconstitutional.

On the question recurring,
Will the House sustain the constitutionality of the resolution?

The following roll call was recorded:

YEAS—110

Adolph	Freeman	Major	Reichley
Aument	Gabler	Maloney	Roae
Baker	Geist	Marshall	Rock
Barrar	Gillen	Marsico	Ross
Bear	Gillespie	Masser	Saccone
Benninghoff	Gingrich	Metcalfe	Samuelson
Bloom	Godshall	Metzgar	Saylor
Boback	Grell	Miccarelli	Scavello
Brown, R.	Grove	Micozzie	Schroder
Caltagirone	Hackett	Millard	Sonney
Causer	Hahn	Miller	Staback
Christiana	Harhart	Milne	Stephens
Clymer	Harper	Moul	Stern
Cox	Harris	Murt	Stevenson
Creighton	Heffley	Mustio	Swanger
Culver	Helm	O'Neill	Tallman
Cutler	Hennessey	Oberlander	Taylor
Day	Hess	Payne	Tobash
Delozier	Hickernell	Peifer	Toepel
Denlinger	Hutchinson	Perry	Toohil
DiGiroloamo	Kampf	Petri	Truitt
Dunbar	Kauffman	Pickett	Turzai
Ellis	Keller, F.	Pyle	Vereb
Emrick	Killion	Quigley	Vulakovich
Evankovich	Knowles	Quinn	Watson
Everett	Krieger	Rapp	
Farry	Lawrence	Reed	Smith, S.,
Fleck	Maher	Reese	Speaker

NAYS—86

Barbin	DeLissio	Kavulich	Petrarca
Bishop	DeLuca	Keller, W.	Preston
Boyle, B.	DePasquale	Kirkland	Ravenstahl
Boyle, K.	Dermody	Kortz	Readshaw
Bradford	DeWeese	Kotik	Roebuck
Brennan	Donatucci	Kula	Sabatina
Briggs	Evans, D.	Longiatti	Sainato
Brown, V.	Fabrizio	Mahoney	Santarsiero
Brownlee	Frankel	Mann	Santoni
Burns	Galloway	Markosek	Shapiro
Buxton	George	Matzie	Smith, K.
Carroll	Gerber	McGeehan	Smith, M.
Cohen	Gergely	Mirabito	Sturla
Conklin	Gibbons	Mullery	Thomas
Costa, D.	Goodman	Mundy	Vitali
Costa, P.	Haluska	Murphy	Wagner
Cruz	Hanna	Myers	Wheatley
Curry	Harhai	Neuman	Wheatley
Daley	Harkins	O'Brien, M.	White
Davidson	Hornaman	Parker	Williams
Davis	Johnson	Pashinski	Youngblood
Deasy	Josephs		

NOT VOTING—0

EXCUSED—7

Boyd	Evans, J.	O'Brien, D.	Simmons
Brooks	Keller, M.K.	Payton	

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the resolution was sustained.

On the question recurring,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—191

Adolph	Evankovich	Kotik	Ravenstahl
Aument	Evans, D.	Krieger	Readshaw
Baker	Everett	Kula	Reed
Barbin	Fabrizio	Lawrence	Reese
Barrar	Farry	Longiatti	Reichley
Bear	Fleck	Maher	Roae
Benninghoff	Frankel	Mahoney	Rock
Bishop	Freeman	Major	Roebuck
Bloom	Gabler	Maloney	Ross
Boback	Galloway	Mann	Sabatina
Boyle, B.	Geist	Markosek	Saccone
Boyle, K.	George	Marshall	Sainato
Bradford	Gerber	Marsico	Samuelson
Brennan	Gergely	Masser	Santarsiero
Briggs	Gibbons	Matzie	Santoni
Brown, R.	Gillen	McGeehan	Saylor
Brown, V.	Gillespie	Metcalfe	Scavello
Brownlee	Gingrich	Metzgar	Schroder
Burns	Godshall	Miccarelli	Shapiro
Buxton	Goodman	Micozzie	Smith, K.
Caltagirone	Grell	Millard	Smith, M.
Carroll	Grove	Miller	Sonney
Causer	Hackett	Milne	Staback
Christiana	Hahn	Mirabito	Stephens
Clymer	Haluska	Moul	Stern
Cohen	Hanna	Mullery	Stevenson
Conklin	Harhai	Mundy	Swanger
Costa, D.	Harhart	Murphy	Tallman
Costa, P.	Harkins	Murt	Taylor
Cox	Harper	Mustio	Thomas
Creighton	Harris	Myers	Tobash
Cruz	Heffley	Neuman	Toepel
Culver	Helm	O'Brien, M.	Toohil
Cutler	Hennessey	O'Neill	Truitt
Daley	Hess	Oberlander	Turzai
Davis	Hickernell	Parker	Vereb
Day	Hornaman	Pashinski	Vitali
Deasy	Hutchinson	Payne	Vulakovich
DeLissio	Johnson	Peifer	Wagner
Delozier	Kampf	Perry	Waters
DeLuca	Kauffman	Petrarca	Watson
Denlinger	Kavulich	Petri	Wheatley
DePasquale	Keller, F.	Pickett	White
Dermody	Keller, W.	Preston	Williams
DiGiroloamo	Killion	Pyle	Youngblood
Donatucci	Kirkland	Quigley	
Dunbar	Knowles	Quinn	Smith, S.,
Ellis	Kortz	Rapp	Speaker
Emrick			

NAYS—5

Curry	DeWeese	Josephs	Sturla
Davidson			

NOT VOTING—0

EXCUSED—7

Boyd	Evans, J.	O'Brien, D.	Simmons
Brooks	Keller, M.K.	Payton	

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1702, PN 2755**, entitled:

An Act reenacting and amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code.

On the question,
Will the House agree to the bill on second consideration?

Mrs. **GINGRICH** offered the following amendment No. **A07611**:

Amend Bill, page 215, lines 22 through 26, by striking out "PROPERTY MAY BE ACQUIRED" in line 22 and all of lines 23 through 26

On the question,
Will the House agree to the amendment?

The **SPEAKER**. On that question, the Speaker recognizes the lady from Lebanon County, Mrs. Gingrich.

Mrs. **GINGRICH**. Thank you, Mr. Speaker.

This is a clarifying amendment that takes the bill language back to the existing Borough Code language in the bill. Thank you.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—193

Adolph	Dunbar	Knowles	Ravenstahl
Aument	Ellis	Kortz	Readshaw
Baker	Emrick	Kotik	Reed
Barbin	Evankovich	Krieger	Reese
Barrar	Evans, D.	Kula	Reichley
Bear	Everett	Lawrence	Roae
Benninghoff	Fabrizio	Longietti	Rock
Bishop	Farry	Maher	Roebuck
Bloom	Fleck	Mahoney	Ross
Boback	Frankel	Major	Sabatina
Boyle, B.	Gabler	Mann	Saccone
Boyle, K.	Galloway	Markosek	Sainato
Bradford	Geist	Marshall	Samuelson
Brennan	George	Marsico	Santarsiero
Briggs	Gerber	Masser	Santoni
Brown, R.	Gergely	Matzie	Saylor
Brown, V.	Gibbons	McGeehan	Scavello
Brownlee	Gillen	Metcalfe	Schroder
Burns	Gillespie	Metzgar	Shapiro
Buxton	Gingrich	Miccarelli	Smith, K.
Caltagirone	Godshall	Micozzie	Smith, M.
Carroll	Goodman	Millard	Sonney
Causser	Grell	Miller	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman

Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neuman	Toepel
Curry	Heffley	O'Brien, M.	Toohil
Cutler	Helm	O'Neill	Truitt
Daley	Hennessey	Oberlander	Turzai
Davidson	Hess	Parker	Vereb
Davis	Hickernell	Pashinski	Vulakovich
Day	Hornaman	Payne	Wagner
Deasy	Hutchinson	Peifer	Waters
DeLissio	Johnson	Perry	Watson
DeLozier	Josephs	Petrarca	Wheatley
DeLuca	Kampf	Petri	White
Denlinger	Kauffman	Pickett	Williams
DePasquale	Kavulich	Preston	Youngblood
Dermody	Keller, F.	Pyle	
DeWeese	Keller, W.	Quigley	Smith, S.,
DiGirolamo	Killion	Quinn	Speaker
Donatucci	Kirkland	Rapp	

NAYS—3

Freeman	Maloney	Vitali
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NOT VOTING—0

EXCUSED—7

Boyd	Evans, J.	O'Brien, D.	Simmons
Brooks	Keller, M.K.	Payton	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on second consideration as amended?

The **SPEAKER**. It is the Speaker's understanding that the other two amendments which had been filed to HB 1702 have been withdrawn.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

* * *

The House proceeded to second consideration of **SB 1336, PN 1839**, entitled:

An Act amending the act of December 18, 1996 (P.L.1066, No.159), known as the Accident and Health Filing Reform Act, dividing the act into Federal compliance and Commonwealth exclusivity; in Federal compliance, further providing for definitions, for required filings, for review procedure, for notice of disapproval, for use of disapproved forms or rates, for review of form or rate disapproval, for disapproval after use, for filing of provider contracts, for record maintenance, for public comment and for penalties and providing for regulations and for expiration; in Commonwealth exclusivity, providing for regulations and for action by the Insurance Commissioner; and making editorial changes.

On the question,
Will the House agree to the bill on second consideration?

The SPEAKER. On that question, is the lady from Luzerne seeking recognition?

The lady is in order on the bill.

Ms. MUNDY. No, sir. Actually, I had an amendment filed, and I agreed to withdraw the amendment in exchange for the opportunity to speak on it.

The SPEAKER. If the lady would prefer, I can call the amendment up, if that is what your intentions are. That is fine.

On the question recurring,
Will the House agree to the bill on second consideration?

Ms. MUNDY offered the following amendment No. **A07487**:

Amend Bill, page 4, line 8, by striking out "45" and inserting
60

Amend Bill, page 5, line 16, by inserting a bracket before "10%"
Amend Bill, page 5, line 16, by inserting after "10%"

] 5%

Amend Bill, page 5, line 20, by striking out "45" and inserting
60

Amend Bill, page 5, line 26, by inserting a bracket before "10%"
Amend Bill, page 5, line 26, by inserting after "10%"

] 5%

Amend Bill, page 6, line 7, by striking out "45" and inserting
60

Amend Bill, page 6, line 25, by striking out "10%" and inserting
5%

Amend Bill, page 14, line 11, by striking out "may" and inserting
shall

Amend Bill, page 20, line 1, by striking out "10%" and inserting
5%

Amend Bill, page 20, line 7, by striking out "10%" and inserting
5%

Amend Bill, page 20, line 20, by striking out "45" and inserting
60

Amend Bill, page 20, line 22, by striking out "45" and inserting
60

Amend Bill, page 20, line 25, by striking out "45-day" and
inserting
60-day

Amend Bill, page 21, lines 1 and 2, by striking out "45-" in line 1
and "day" in line 2 and inserting

60-day

Amend Bill, page 21, line 3, by striking out "45" and inserting
60

Amend Bill, page 26, line 17, by striking out "not"

Amend Bill, page 26, line 18, by striking out "At the
commissioner's discretion, however, notice" and inserting

Notice

Amend Bill, page 26, line 19, by striking out "may" and inserting
shall

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady from Luzerne, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

The amendment that I had intended to offer would have reduced the rate increase amount from 10 percent to 5 percent.

Mr. Speaker, health-care cost inflation is completely out of control. We must do all in our power to reduce health-care costs. While I have at least two other bills that would achieve that goal, I also see the amendment as another important initiative to the overall effort of health-care cost containment. Our citizens are being squeezed out of the health insurance market by double-digit rate increases year after year. We simply must do more to help the average family afford health care. The only way to do that is to make a serious effort at health-care cost containment. The amendment that I would have offered would better protect consumers from unnecessary and unjustified health insurance rate increases.

And while I applaud the underlying goal of the bill – to require the Insurance Department to review rate filings for all health insurers – I do not believe it goes far enough. As it is currently written, SB 1336 would only require the Insurance Department to review a rate increase of 10 percent or more, with a review period of only 45 days. My amendment would have required the department to review any rate increase of 5 percent or more, and extend the review period to 60 days. It would have required a public comment period, while the underlying bill does not. In fact, SB 1336 in its current form allows an insurance company to request, an insurance company can request a public hearing to ask why it had a rate increase rejected, but a small business owner who would have had to pay the rate increase would not be able to request a public hearing to have the rate increase justified. That is just backwards.

According to the Pennsylvania Health Access Network, 37 percent of rate filings by not-for-profit insurance companies have been reduced or withdrawn during a current review process in Pennsylvania – 37 percent. This statistic shows that Pennsylvania's current system of requiring the department to review all rate filings of not-for-profit companies works better than the underlying bill here. This is the requirement that should be applied to all health insurers in our State. To only require rate filings of 10 percent or more to be reviewed by the department, too many unnecessary and unwarranted rate filings would automatically go into effect. Hardworking families, seniors on fixed incomes, and struggling small businesses would be left to pick up the pieces. In fact, had SB 1336 been in effect just last month, Blue Cross of Northeastern Pennsylvania would have been able to automatically raise the rates of three plans targeted for seniors by 9.9 percent. Instead, they had to file this request with the department first, and that is how it should work.

Again, I support the underlying bill's goal to require all health insurers to be reviewed by the department in order to raise their rates, but the threshold of 10 percent is really too high.

AMENDMENT WITHDRAWN

Ms. MUNDY. Mr. Speaker, I am withdrawing this amendment because I have been asked to by my minority chairman of the Health Insurance Committee, but I do believe strongly that we need to address the issue of health-care cost containment in a much more serious way to protect the average citizen, the average small business from these double-digit rate increases that are occurring year after year after year. These rates are simply unsustainable.

The SPEAKER. The Speaker thanks the lady.

On the question recurring,
Will the House agree to the bill on second consideration?
Bill was agreed to.

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the minority whip, who requests a leave of absence for the gentleman from Allegheny County, Mr. Dom COSTA, for the remainder of the day. Without objection, the leave will be granted.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1813, PN 2323**, entitled:

An Act amending the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, further providing for mining permit, reclamation plan and bond; and providing for land reclamation financial guarantees.

On the question,
Will the House agree to the bill on second consideration?

Mr. **TOBASH** offered the following amendment No. **A07718**:

- Amend Bill, page 9, line 18, by striking out "For a 25-year period beginning in 2011" and inserting Beginning in fiscal year 2012-2013 and upon approval of the Governor
- Amend Bill, page 9, line 23, by inserting after "transferred" annually
- Amend Bill, page 9, line 26, by inserting after "Account." The authority to transfer funds under this clause expires June 30, 2038.

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Schuylkill County, Mr. Tobash.

Mr. **TOBASH**. Thank you, Mr. Speaker.

This amendment simply cleans up some wording within the bill. It defines the sunset clause within that piece of legislation as well as clearing up some wording as far as a transfer of money within the bill. Thank you very much. I would encourage a "yes" vote on this amendment.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—195

Adolph	Emrick	Kortz	Ravenstahl
Aument	Evankovich	Kotik	Readshaw
Baker	Evans, D.	Krieger	Reed
Barbin	Everett	Kula	Reese
Barrar	Fabrizio	Lawrence	Reichley
Bear	Farry	Longietti	Roae
Benninghoff	Fleck	Maher	Rock
Bishop	Frankel	Mahoney	Roebuck

Bloom	Freeman	Major	Ross
Boback	Gabler	Maloney	Sabatina
Boyle, B.	Galloway	Mann	Saccone
Boyle, K.	Geist	Markosek	Sainato
Bradford	George	Marshall	Samuelson
Brennan	Gerber	Marsico	Santarsiero
Briggs	Gergely	Masser	Santoni
Brown, R.	Gibbons	Matzie	Saylor
Brown, V.	Gillen	McGeehan	Scavello
Brownlee	Gillespie	Metcalfe	Schroder
Burns	Gingrich	Metzgar	Shapiro
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causer	Grove	Miller	Staback
Christiana	Hackett	Milne	Stephens
Clymer	Hahn	Mirabito	Stern
Cohen	Haluska	Moul	Stevenson
Conklin	Hanna	Mullery	Sturla
Costa, P.	Harhai	Mundy	Swanger
Cox	Harhart	Murphy	Tallman
Creighton	Harkins	Murt	Taylor
Cruz	Harper	Mustio	Thomas
Culver	Harris	Myers	Tobash
Curry	Heffley	Neuman	Toepel
Cutler	Helm	O'Brien, M.	Toohil
Daley	Hennessey	O'Neill	Truitt
Davidson	Hess	Oberlander	Turzai
Davis	Hickernell	Parker	Vereb
Day	Hornaman	Pashinski	Vitali
Deasy	Hutchinson	Payne	Vulakovich
DeLissio	Johnson	Peifer	Wagner
DeLozier	Josephs	Perry	Waters
DeLuca	Kampf	Petrarca	Watson
Denlinger	Kauffman	Petri	Wheatley
DePasquale	Kavulich	Pickett	White
Dermody	Keller, F.	Preston	Williams
DeWeese	Keller, W.	Pyle	Youngblood
DiGirolo	Killion	Quigley	
Donatucci	Kirkland	Quinn	Smith, S., Speaker
Dunbar	Knowles	Rapp	
Ellis			

NAYS—0

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on second consideration as amended?

Mr. **VITALI** offered the following amendment No. **A07459**:

Amend Bill, page 9, lines 18 through 26, by striking out all of said lines

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Before I begin, I would just like to commend the maker of the bill on an excellent piece of legislation, which I am trying to improve a bit. Just by way of background, what the bill in chief does is deals with the problem of coal mines and acid mine drainage and cleaning them up. I am totally supportive of that, and I am hoping to vote for the bill. Now, what this amendment does is deals with how that cleanup is funded. There is no doubt that this funding is needed. As I understand it, the bill sets up a fund that is funded from multiple sources. One of those sources, which my amendment is directed at, is the gross receipts tax. What my amendment – this bill in chief would take \$2 million from the gross receipts tax to clean up acid mine drainage. Now, I would say that money is needed to clean up acid mine drainage, but the money should come from the coal industry, not from the people of Pennsylvania.

The gross receipts tax goes into the General Fund. The General Fund funds all sorts of programs that everyone throughout the State benefits from, and we sorely need moneys there – education and health care and so forth. By taking money to fund cleaning up acid mine drainage from the General Fund, in effect, you are hurting all Pennsylvanians. Now, this amendment deletes that from the bill, which would mean that the other funding sources in the bill would have to step in, and I think that is appropriate. There is a fee – it is called a reclamation fee – now which has been established. And I think this reclamation fee is what should be used to fund this cleanup. What this reclamation fee is – and again, I am just learning about this issue this week – but what this reclamation fee is, if you are a coal operator and you want to develop new surface mining, you have to pay a fee per acreage. And it is my understanding, in talking to some experts, that fee had been set at zero for at least 2 recent years.

Now, I would say that the better way to fund this, and I think we are really talking about less than \$2 million a year, a better way to fund cleaning up this particular problem is to have the coal industry pay the fee, not all of the people of Pennsylvania having to really, really suffer and make up the revenues in other ways. I also might say that some very mainstream environmental groups like Penn Future, for example, they have supported the Vitali amendment. They have supported this amendment. They also agree that taking moneys from the gross receipts tax, which goes to the General Fund and all Pennsylvanians benefit from, is the wrong way to go. The coal industry ought to be paying for this. The way to do it is to increase the reclamation fee. Provisions in the bill provide for this reclamation fee, so if we just delete the gross receipts tax, all they need to do is adjust the reclamation fee which the bill provides for and we can fund this.

So I think it is, the question really becomes, who is going to be paying for this cleaning? Should it be the coal industry or should it be the people of Pennsylvania? Now, admittedly, I understand that this mess is being caused by mines that are not in operation and the fee would be charged for new operations, so there is not a one-to-one connect there and I get that. But the real question is, who is going to be left holding the bag here? There are two imperfect people. I say the coal industry. You may disagree and say the people of Pennsylvania as a whole, but I say, I say the coal industry.

So let us just delete this provision from this otherwise excellent bill. So I would ask for a "yes" vote. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Schuylkill County, Mr. Tobash.

Mr. TOBASH. Thank you very much, Mr. Speaker.

And I appreciate the comments from the maker of the amendment, and I understand his effort to get educated on this subject and I appreciate that. I can tell you that he is correct in that the funds right now for treatment, and it is court-ordered treatment, they are coming out of a fund that is called the O&M Trust Fund. It is the Operations and Maintenance Trust Fund.

I stand this evening in opposition of the amendment, 7459, and these are the reasons: that there are court-ordered treatments and they are a requirement. The order requires that there be a plan put in place. The amendment that my colleague is offering, it removes that plan from the legislation. And again, he is correct on some points and I will remake them; I will restate them. Number one, the current industry has not caused the problem. These are legacy discharge sites that are born of the industry's predecessors. Number two, the industry already does pay fees and they already do pay a Federal severance tax that goes towards environmental issues. The plan in HB 1813, number one, requires no new tax, and it does allow our legislative body to go back to the gross receipts tax, which is largely generated from the coal industry, and take these funds for treatment if indeed they are necessary.

Again, my colleague is correct in that fees and interest go into the O&M Trust Fund, but in the event they are not substantial or not enough to cover the cost of this treatment, we have a plan in HB 1813 that will allow this legislature, not require the legislature, to direct ourselves where we shall take the funds from. So again, I urge my colleagues for a "no" vote on this amendment. Thank you very much, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali, for the second time.

Mr. VITALI. Again, I do not want to be too contentious because I admit these mines need to be cleaned up, but I just want to correct one thing. This amendment does not remove any plan. I mean, if you just sort of, and I can sort of prove that. If you just sort of read the amendment, it just strikes out lines 18 through 26 on page 9, and that just talks about the gross receipts tax. So we are not removing any plan. There are multiple funding sources here and we are just taking away one of them. That is all this— Look, the amendment itself is 1 1/2 lines, and all we are doing is deleting lines 18 through 26, which talk about the gross receipts tax, because the gross receipts tax, frankly, is paid by many, many sources, anyone who pays gross receipt, has gross receipts.

So essentially, not to repeat myself, but these are moneys that go into the General Fund. The General Fund benefits us all. If we take \$2 million out a year, it is \$2 million left for education, health care, all the rest. The industry should be paying. It is an industry problem. It can be easily done by increasing the reclamation fee. So let us let the coal industry pay for coal industry problems, not the people of Pennsylvania as a whole, and I ask for a "yes" vote.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—64

Bishop	Deasy	Keller, W.	Sabatina
Boyle, B.	DeLissio	Kirkland	Samuelson
Boyle, K.	DeLuca	Kotik	Santarsiero
Bradford	DePasquale	Mann	Santoni
Brennan	Donatucci	Matzie	Shapiro
Briggs	Evans, D.	McGeehan	Smith, K.
Brown, V.	Fabrizio	Mundy	Smith, M.
Brownlee	Frankel	Murphy	Staback
Buxton	Freeman	Myers	Sturla
Caltagirone	Galloway	O'Brien, M.	Thomas
Cohen	Gerber	Parker	Vitali
Cruz	Hanna	Pashinski	Wagner
Curry	Harkins	Preston	Waters
Daley	Hornaman	Ravenstahl	Wheatley
Davidson	Johnson	Readshaw	Williams
Davis	Josephs	Roebuck	Youngblood

NAYS—131

Adolph	Gabler	Kula	Quigley
Aument	Geist	Lawrence	Quinn
Baker	George	Longietti	Rapp
Barbin	Gergely	Maher	Reed
Barrar	Gibbons	Mahoney	Reese
Bear	Gillen	Major	Reichley
Benninghoff	Gillespie	Maloney	Roe
Bloom	Gingrich	Markosek	Rock
Boback	Godshall	Marshall	Ross
Brown, R.	Goodman	Marsico	Saccone
Burns	Grell	Masser	Sainato
Carroll	Grove	Metcalfe	Saylor
Causer	Hackett	Metzgar	Scavello
Christiana	Hahn	Miccarelli	Schroder
Clymer	Haluska	Micozzie	Sonney
Conklin	Harhai	Millard	Stephens
Costa, P.	Harhart	Miller	Stern
Cox	Harper	Milne	Stevenson
Creighton	Harris	Mirabito	Swanger
Culver	Heffley	Moul	Tallman
Cutler	Helm	Mullery	Taylor
Day	Hennessey	Murt	Tobash
Delozier	Hess	Mustio	Toepel
Denlinger	Hickernell	Neuman	Toohil
Dermody	Hutchinson	O'Neill	Truitt
DeWeese	Kampf	Oberlander	Turzai
DiGirolamo	Kauffman	Payne	Verbe
Dunbar	Kavulich	Peifer	Vulakovich
Ellis	Keller, F.	Perry	Watson
Emrick	Killion	Petrarca	White
Evankovich	Knowles	Petri	
Everett	Kortz	Pickett	Smith, S.,
Farry	Krieger	Pyle	Speaker
Fleck			

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

The SPEAKER. The House will come to order.

* * *

The House proceeded to second consideration of **SB 995, PN 1844**, entitled:

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in Commonwealth services, requiring that the operator of each permitted unconventional wells within Pennsylvania post certain 911 response information at the entrance to each unconventional well site.

On the question,
Will the House agree to the bill on second consideration?

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Basically, amendment 7443 does a number of things – three things, basically – all of which are designed to deal with the growing problem of air pollution associated with Marcellus drilling. By way of quick background, Marcellus drilling produces a number of pollutants, including SOx (sulfur oxide), NOx (nitrogen oxide), particulate matter, volatile organic compounds, methane, and others, and they are produced by the numerous engines – internal combustion and other engines – associated with drilling, as well as other sources of pollution.

In fact, it has been noted that Marcellus drilling is the second largest producer of NOx in Pennsylvania next to coal production. So in order to address this problem, we do at least three things. One is, we need to measure. We really need to know how much pollution is being caused. So the amendment would require protocols to be established to measure the pollution, and then after those protocols are established, actually the DEP (Department of Environmental Protection) would actually have to measure pollution coming from Marcellus drilling. So to measure pollution is the first thing.

The second thing is this: I think many people do not realize it, but with regard to air pollution, all activity on drilling wells is exempt from air pollution requirements even though a lot of air pollution is caused from those wells. This exemption now exists, this permanent exemption now exists, because when there used to be just shallow wells, it was inconsequential, the air pollution, but now with these huge pads with 8, 10, 12 drills in each, there is a lot of pollution. The second thing would be to reduce or narrow the permit exemption for wells, so if you are going to be a driller, you have to get an air pollution permit in most cases. That is the second thing.

The third thing is, it increases fees for air pollution permits. Right now our air pollution program, all the people who process permits, all the people who inspect, monitor, and so forth, they are all funded by fees. They are all funded by fees, not our General Fund. And there were regulations moving through starting in 2009 which increased this fee package, that would have given, for example, this year another \$8 million to the air

pollution program to control it, to fund it properly so air pollution can be controlled. So the third thing this would do would be to increase the fee package. Good stuff, but I think what I would like to do is introduce this as a bill and take the time to really develop and educate people on this issue the right way. So for that reason, tonight, because the hour is late, I am going to be withdrawing this amendment, but I hope as we move this issue forward we can all work together to deal with this very serious problem. Thank you very much, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration?

Mr. **GEORGE** offered the following amendment No. **A07600**:

Amend Bill, page 1, line 5, by inserting after "site"

; and providing for injection well coordination measures

Amend Bill, page 1, line 9, by striking out "a section" and inserting

sections

Amend Bill, page 3, by inserting between lines 13 and 14

§ 7322. Injection well coordination measures.

(a) Emergency regulations.—The agency and the Department of Environmental Protection shall adopt emergency regulations governing the location of and the acceptance of waste into injection wells within this Commonwealth. The regulations shall include minimum distance requirements prohibiting the injection or acceptance of waste into wells within:

(1) 2,000 feet of private water supplies.

(2) 5,500 feet of public water supplies.

(b) Definition.—As used in this section, the term "injection well" means a bore hole drilled or being drilled for the purpose of or to be used for injecting gas, petroleum or other liquid related to oil or gas production, storage or disposal.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Clearfield County, Mr. George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, I will not be long, but I congratulate the body here tonight. A couple of votes ago we took a vote on protecting air quality on deep mines and things of that nature. There are not any of us that have not heard that the Constitution insists upon the guarantee of clean air and clean water. So the reason I am introducing this is because there would not be a better time, and what we have forgotten and what I believe we should take up is the fact that we are encountering new changes, new challenges with the Marcellus Shale play almost every day. Now, I am for Marcellus Shale as I am for coal because they make jobs.

Now, a toxic waste disposal well has been proposed in Brady Township. That is not my district, but I have 22 cards I got today and last week 67 e-mails from people that are scared to death and have asked that we do something about it. An injection well is where the worst of the worst, the frack fluid, is dumped into a hole in the ground. This well has been proposed in a residential area, only about a mile from the city of DuBois

in Sandy Township, and dozens of residents have written, as I say, pleading for something to be done. This injection well would be built less than 1400 feet from 60 private wells. My amendment would simply require the Department of Environmental Resources and Protection and the Pennsylvania Emergency Management Agency to adopt setbacks prohibiting the location of toxic waste disposal wells within 2,000 feet of private water supplies and 5500 feet from public water supplies.

Mr. Speaker, 22 applications for injection wells are pending in Pennsylvania. This soon could be an issue in our backyard. But as far as this General Assembly, we all ought to be concerned about the other guy's backyard. That is why we are here, not only to support the Constitution but support the benefit of the people and seeing to it that they are protected. It is for this reason that I ask our members to support SB 995, which is a good bill, and this amendment I offer makes it even better. Thank you, Mr. Speaker.

GERMANENESS QUESTIONED

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Venango County, Mr. Hutchinson.

Mr. HUTCHINSON. Thank you, Mr. Speaker.

Mr. Speaker, may I make a motion?

The SPEAKER. The gentleman is in order.

Mr. HUTCHINSON. Mr. Speaker, I would like to make a motion at this time that this amendment before us, A07600, is not germane to SB 995.

The SPEAKER. The gentleman from Venango County, Mr. Hutchinson, has raised the question of whether amendment A07600 is germane. Under House rule 27, questions involving whether an amendment is germane to the subject shall be decided by the House.

On the question,

Will the House sustain the germaneness of the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Venango County, Mr. Hutchinson.

Mr. HUTCHINSON. Thank you, Mr. Speaker.

Mr. Speaker, before us, SB 995, it amends Title 35, the health and safety title. This bill deals with requiring operators of unconventional wells to post 911 emergency response information at the well site. That is basically what this bill does. But, Mr. Speaker, what we have here now, this amendment, A7600, deals with something quite different. This amendment before us is not germane because it is dealing with the injection of waste into injection wells. This amendment is not germane because not only does it deal with injection well regulations and waste management, which should be under Title 27, which is environmental resources, or possibly Title 58, oil and gas, and not in Title 35 that we are dealing with today. But in addition, since this is dealing with disposal wells, it is the Federal EPA (Environmental Protection Agency) and not DEP that is the agency that has jurisdiction to regulate those types of wells. You know, States do have the power to apply for primacy in this area, but Pennsylvania has chosen not to do so, and therefore, it is the EPA that implements injection well control programs in Pennsylvania.

So I, for both of those reasons, believe that this is not germane to this bill before us, and I ask the members to concur on that judgment.

Thank you, Mr. Speaker.

The SPEAKER. On the question of germaneness, the Speaker recognizes the gentleman from Cambria County, Mr. Barbin.

Mr. BARBIN. Thank you, Mr. Speaker.

I rise in opposition to the motion for germaneness. The issue before this House, or at least up until this evening, was are we going to protect the water? Are we going to protect gas explosions? Are we going to protect the people? Now, it looks like we are not going to pass a Marcellus bill. It looks like we are going to let regulation go until next year.

Now, this bill specifically says emergency regulations. It is the right title. Now, why is it that a GPS (global positioning system) bill, why did we even come up with a bill? It was because of safety. We wanted fire departments to be able to get to the well site if there was a gas explosion so that whatever potential problems there were, they could be addressed quickly. Now, if we had a Marcellus Shale bill and this could be part of that Marcellus Shale bill, we would not need the emergency regulation for the other aspect of safety, but this is about injection wells. Now, New York has issued a moratorium because all this stuff is dangerous. Ohio has the injection wells, but they have a different geological source. It is a little safer to put all this fracking fluid in an injection well in Ohio because they have a different geology than we do in western Pennsylvania. We have limestone in western Pennsylvania and limestone is more porous.

So we are not going to do the Marcellus bill with the regulation, and now all of a sudden when we want to talk about safety, we get the 150th germaneness argument so that we cannot bring up the issue of trying to protect the public safety. We should either do the Marcellus Shale bill, or this motion for germaneness ought to be withdrawn so we can at least protect the water until we come up with a comprehensive bill for Marcellus Shale.

Again, I ask for just common sense. We have to protect the water. This is an injection well. If any of it leaks out, we are going to have an aquifer problem.

Thank you, Mr. Speaker.

The SPEAKER. On the question of germaneness, the Speaker recognizes the gentleman from Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, this is pretty easy. I am looking at the amendment and I am looking at the title of the bill. The bill deals with 911 regulations, that is emergency regulations. The amendment says "emergency regulations." The title to the bill talks about wells. The title to the amendment talks about wells. This could not be more simple. This is about wells. It is about emergency regulations, both in the amendment and in the bill. This is absolutely germane and we should so rule, Mr. Speaker.

I urge a "yes" vote on germaneness. Thank you, Mr. Speaker.

The SPEAKER. On the question of germaneness, the Speaker recognizes the gentleman from Clearfield County, Mr. George.

Mr. GEORGE. Mr. Speaker, again, I will not be long, but my compatriot on the other side said that the bill is not germane because it does not attend to the matter of the emergency and unconventional matters, and it really offers this to the EPA and

emergency management. But what caught my attention when the gentleman said unconventional; well, he comes from the well area where there are many thousands of wells. The Drake well is there. And I am not here to argue all night. I can only say, if an unconventional well is not a well where they put fracking water, that even if it is drawn out, a good bit of it remains to mix with the aquifer, and the matter of fracking can be done three or four times because of the horizontal drilling. We are not trying to cost them any money or give them any problems. We are just saying, look, to protect the people, to protect yourselves, just move back a little bit and our minds will be clear and our thoughts will be with you in that you are with us; you are trying to do something good for Pennsylvania, not put people out of water or make them sick because of contamination. That is the only reason I offered this amendment. If you want to vote it down because it is germane or it is not germane or whatever, you tell the people that when the first complaint comes in about the ungratifying situation of various people or a community losing their water. I hope I never see it, but it is going to happen, you mark these words.

The SPEAKER. On the question of germaneness, the gentleman from Lycoming County, Mr. Everett, is recognized.

Mr. EVERETT. Thank you, Mr. Speaker.

May I just have a moment.

Thank you, Mr. Speaker.

I just would like to point out that the underlying bill is a Title 35 bill, as has been stated, which deals clearly with health and safety. And the George bill, which is now the George amendment, is a Title 27 amendment and deals with oil and gas and regulations that deal with oil and gas, and not with health and safety. So these two issues are clearly mixed, and the amendment is clearly not germane to the underlying bill. And for that reason, I would ask a "no" vote on the George amendment. Thank you, Mr. Speaker.

The SPEAKER. On the question of germaneness, the gentleman from Venango County, Mr. Hutchinson, is recognized for the second time.

Mr. HUTCHINSON. Thank you, Mr. Speaker.

Mr. Speaker, clearly, clearly, today we are talking—

The SPEAKER. Will the gentleman suspend. Will the gentleman suspend.

The Speaker apologizes. Each member is only, under our rules, each member is only entitled to speak one time on germaneness. I apologize; it was my mistake.

On the question of germaneness, those who believe the amendment is germane will vote "aye"; those who believe the amendment is not germane will vote "no."

On the question recurring,

Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

YEAS—96

Barbin	DePasquale	Josephs	Petri
Bishop	Dermody	Kavulich	Preston
Boyle, B.	DeWeese	Keller, W.	Quinn
Boyle, K.	Donatucci	Kirkland	Ravenstahl
Bradford	Evans, D.	Kortz	Readshaw
Brennan	Fabrizio	Kotik	Roebuck
Briggs	Farry	Kula	Sabatina
Brown, V.	Frankel	Longietti	Sainato
Brownlee	Freeman	Maher	Samuelson

Burns	Gabler	Mahoney	Santarsiero
Buxton	Galloway	Mann	Santoni
Caltagirone	George	Markosek	Shapiro
Carroll	Gerber	Matzie	Smith, K.
Cohen	Gergely	McGeehan	Smith, M.
Conklin	Gibbons	Mirabito	Staback
Costa, P.	Gillen	Mullery	Sturla
Cruz	Goodman	Mundy	Thomas
Curry	Haluska	Murphy	Vitali
Daley	Hanna	Myers	Wagner
Davidson	Harhai	Neuman	Waters
Davis	Harkins	O'Brien, M.	Wheatley
Deasy	Harper	Parker	White
DeLissio	Hornaman	Pashinski	Williams
DeLuca	Johnson	Petrarca	Youngblood

NAYS—99

Adolph	Geist	Marshall	Roae
Aument	Gillespie	Marsico	Rock
Baker	Gingrich	Masser	Ross
Barrar	Godshall	Metcalfe	Saccone
Bear	Grell	Metzgar	Saylor
Benninghoff	Grove	Miccarelli	Scavello
Bloom	Hackett	Micozzie	Schroder
Boback	Hahn	Millard	Sonney
Brown, R.	Harhart	Miller	Stephens
Causar	Harris	Milne	Stern
Christiana	Heffley	Moul	Stevenson
Clymer	Helm	Murt	Swanger
Cox	Hennessey	Mustio	Tallman
Creighton	Hess	O'Neill	Taylor
Culver	Hickernell	Oberlander	Tobash
Cutler	Hutchinson	Payne	Toepel
Day	Kampf	Peifer	Toohil
Delozier	Kauffman	Perry	Truitt
Denlinger	Keller, F.	Pickett	Turzai
DiGirolo	Killion	Pyle	Vereb
Dunbar	Knowles	Quigley	Vulakovich
Ellis	Krieger	Rapp	Watson
Emrick	Lawrence	Reed	
Evankovich	Major	Reese	Smith, S.,
Everett	Maloney	Reichley	Speaker
Fleck			

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was declared not germane.

On the question recurring,
Will the House agree to the bill on second consideration?
Bill was agreed to.

**THE SPEAKER PRO TEMPORE
(MATTHEW E. BAKER) PRESIDING**

* * *

The House proceeded to second consideration of **SB 1310, PN 1849**, entitled:

An Act amending the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, further providing for definitions, for determination of contribution rate,

for additional contribution for interest, for trigger determination, for collection of contribution and interest and injunctions, for compensation rate, for Unemployment Compensation Fund, for Interest Fund, for State Treasurer as custodian, for recovery and recoupmnt of compensation; and providing for unemployment compensation bonds and for unemployment compensation amnesty program.

On the question,
Will the House agree to the bill on second consideration?

Mr. **W. KELLER** offered the following amendment No. **A07726**:

Amend Bill, page 27, by inserting between lines 3 and 4
Section 1404.1. Sale of bonds.

The sale of bonds issued under this article shall be subject to the following:

(1) The authority shall give first consideration to issuing the bonds by means of an open, public sale at not less than 98% of the principal amount and accrued interest and shall be sold by the authority to the highest and best bidder after public advertisement on terms and conditions and upon open competitive bidding. The manner and times of advertising shall be prescribed by the authority.

(2) If in the judgment of the authority, a public sale will not produce the most advantageous terms that derive the most benefit to employers, employees and the Commonwealth, the authority shall adopt a resolution setting forth in detail the reasons for this determination. A copy of the resolution shall be transmitted to the Governor, the chairman and minority chairman of the Labor and Industry Committee of the Senate and the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives. After adoption of the resolution, the authority shall have the option to pursue a private sale.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. On the question, the gentleman, Mr. Keller, is recognized.

Mr. W. KELLER. Thank you, Mr. Speaker.

Mr. Speaker, SB 1310 authorizes PEDFA, Pennsylvania Economic Development Financing Authority, to issue \$4.5 billion in bonds, by far the largest bond issue authorization by any State for repayment of the Federal unemployment loan debt. Right now PEDFA and the Department of Labor will negotiate the bond sale. That means they will not take bids. This amendment will allow PEDFA to issue these bonds by either a competitive bid, where they go to the market and everyone will put a bid in, or if they need to, a negotiated sale, whatever is better for the agency so they can get a lower rate. This helps us with the transparency of this transaction, and I believe it makes this bill much better.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

I concur that this is a good amendment and would ask for everyone's support, ask for a "yes" vote on this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. Will the honorable chairman of the Labor Committee submit to brief interrogation?

The SPEAKER pro tempore. The gentleman has agreed. You may proceed.

Mr. DeWEESE. If this amendment is incorporated into the body of the bill, Mr. Speaker, one of two things will happen, I believe. One of them is there will be competitive bidding, and the other one is more difficult to understand. Could you and your team explain to the membership what would be the second option?

Mr. MILLER. Yes, Mr. Speaker.

If we cannot get participation in the competitive bidding because of market conditions or whatever, there is a negotiated way which basically allows the bond people to go out and premarket the bonds, and it is just handled in a different way. Certainly, the competitive bidding is a good way to go and I support it, but it is not always possible in bond issuances of this size and this nature to be able to get people to participate in the competitive bidding.

Mr. DeWEESE. That concludes my interrogation. On the bill.

The SPEAKER pro tempore. On the amendment?

Mr. DeWEESE. I apologize, Mr. Speaker; on the amendment.

I am going to vote "no." I will probably be the only one up there, but I do not think we should give the administration any flexibility whatsoever. I think there should be competitive bidding, pure and simple. For so long, for so long, men and women on this side of the aisle have had their campaign brochures chockablock with denunciations of Edward G. Rendell and laudations about competitive bidding. They did not want Ballard Spahr to get all of the business. They did not want XYZ law firm in Philadelphia that was close to Rendell. And some of us felt the same way, in all fairness, about His Excellency, Governor Ridge, and some of you felt the same way about Governor Casey, etc., etc.

The current administration came cascading into the Susquehanna Valley with the words "transparency" stamped upon their head – I know that is only one word – but transparency, competitive bidding. Now, I have an experience that I hope the gentleman from York, both my friends from York never have, but I spent 15 1/2 hours in front of a grand jury and proffer sessions in 2009, and one of the chief efforts of Frank Fina and his grand jury was to talk about competitive bidding in the legislature, competitive bidding in the Gaming Commission, competitive bidding at the Turnpike Commission, competitive bidding throughout government. A grand jury report came forward, and at the core, at the core of that grand jury report was advocacy for competitive bidding throughout the ranks of State government.

I had an amendment yesterday and my honorable colleagues rejected it on a party-line vote. They were very polite. They exercised their political muscle in committee. So we have another chance now, Mr. Speaker, to make certain that the largest bond issue in Commonwealth history, potentially \$4.2 billion, is bid competitively. The honorable chairman said there is yet one other way if the competitive bidding does not work. Bond counsel will get together, blah, blah, blah, blah, blah. Now, that is not to diminish the gentleman's explanation, of course, because it was too arcane for most of us to understand as one of the administration's very talented bond lawyers tried to explain it to us. But he did explain one thing, Mr. Speaker. He did explain it was not competitive bidding, the other option. This amendment allows two options: competitive

bidding and something else called the Governor. The Governor's Office will make the call. We are either going to vote for competitive bidding or we are going to vote for something less than competitive bidding.

I am going to embrace the sentences of the grand jury report, the ethos of the grand jury prosecutors when they came out in favor of competitive bidding. I am going to vote against this amendment because it is too flexible and allows for other than competitive bidding. Thank you very much, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—189

Adolph	Emrick	Kortz	Ravenstahl
Aument	Evankovich	Kotik	Readshaw
Baker	Evans, D.	Krieger	Reed
Barbin	Fabrizio	Kula	Reese
Barrar	Farry	Lawrence	Reichley
Bear	Fleck	Longietti	Roae
Benninghoff	Frankel	Mahoney	Rock
Bishop	Freeman	Major	Roebuck
Bloom	Gabler	Maloney	Ross
Boback	Galloway	Mann	Sabatina
Boyle, B.	Geist	Markosek	Saccone
Boyle, K.	George	Marshall	Sainato
Bradford	Gerber	Marsico	Samuelson
Brennan	Gergely	Masser	Santarsiero
Briggs	Gibbons	Matzie	Santoni
Brown, R.	Gillen	McGeehan	Saylor
Brown, V.	Gillespie	Metcalfe	Scavello
Brownlee	Gingrich	Metzgar	Schroder
Burns	Godshall	Miccarelli	Shapiro
Buxton	Goodman	Micozzie	Smith, K.
Caltagirone	Grell	Millard	Smith, M.
Carroll	Grove	Miller	Sonney
Causar	Hackett	Milne	Staback
Christiana	Hahn	Mirabito	Stephens
Clymer	Haluska	Moul	Stern
Cohen	Hanna	Mullery	Stevenson
Conklin	Harhai	Mundy	Sturla
Costa, P.	Harhart	Murphy	Swanger
Cox	Harkins	Murt	Tallman
Creighton	Harper	Mustio	Taylor
Cruz	Harris	Myers	Thomas
Culver	Heffley	Neuman	Tobash
Cutler	Helm	O'Brien, M.	Toepel
Daley	Hennessey	O'Neill	Toohil
Davidson	Hess	Oberlander	Truitt
Davis	Hickernell	Parker	Vereb
Day	Hornaman	Pashinski	Vitali
Deasy	Hutchinson	Payne	Wagner
DeLissio	Johnson	Peifer	Waters
Delozier	Josephs	Perry	Watson
DeLuca	Kampf	Petrarca	Wheatley
Denlinger	Kauffman	Petri	White
DePasquale	Kavulich	Pickett	Williams
Dermody	Keller, F.	Preston	Youngblood
DiGirolamo	Keller, W.	Pyle	
Donatucci	Killion	Quigley	Smith, S., Speaker
Dunbar	Kirkland	Quinn	
Ellis	Knowles	Rapp	

NAYS—6

Curry	Everett	Turzai	Vulakovich
DeWeese	Maher		

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on second consideration as amended?

The SPEAKER pro tempore. The gentleman, Mr. Gergely, has withdrawn his amendment. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Miller, who I believe wants to make a motion to suspend the rules. Is that correct, Mr. Miller?

Mr. MILLER. Yes, Mr. Speaker.

I would like to suspend the rules to offer amendment A07885.

The SPEAKER pro tempore. The gentleman, Mr. Miller, has made a motion to suspend the rules for the purpose of offering amendment A07885.

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

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Miller.

Mr. MILLER. Mr. Speaker, this is a technical amendment. We found some language that was incorrect that we needed to clean up, but this is mainly a technical amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, this is a technical amendment, and we urge the members to support the motion to suspend the rules.

The SPEAKER pro tempore. The Chair thanks the gentleman.

For what purpose does the gentleman, Mr. Vitali, rise?

Mr. VITALI. Just to get a little better explanation of the amendment. I think traditionally we have allowed a bit of an explanation prior to the suspension motion to understand what we are suspending. As I look at the language, I am seeing fees for bond trustees and so forth, so if we could just have a little more robust explanation prior to voting on it.

The SPEAKER pro tempore. Will the gentleman, Mr. Miller, please elaborate on his explanation a bit more for the gentleman, Mr. Vitali.

Mr. MILLER. Mr. Speaker, this is language that was suggested by the legal department, the legal people in the Department of Labor and Industry, and I believe that it is purely technical in nature to improve the bill.

The SPEAKER pro tempore. The Chair thanks the gentleman.

It is our understanding it is an agreed-to technical amendment, Mr. Vitali.

The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—188

Adolph	Ellis	Kortz	Readshaw
Aument	Emrick	Kotik	Reed
Baker	Evankovich	Krieger	Reese
Barbin	Evans, D.	Kula	Reichley
Barrar	Everett	Longietti	Roae
Bear	Fabrizio	Maher	Rock
Benninghoff	Farry	Mahoney	Roebuck
Bishop	Fleck	Major	Ross
Bloom	Frankel	Maloney	Sabatina
Boback	Freeman	Mann	Saccone
Boyle, B.	Gabler	Markosek	Sainato
Boyle, K.	Geist	Marshall	Santarsiero
Bradford	George	Marsico	Santoni
Brennan	Gerber	Masser	Saylor
Briggs	Gergely	Matzie	Scavello
Brown, R.	Gibbons	McGeehan	Schroder
Brown, V.	Gillen	Metcalfe	Shapiro
Brownlee	Gillespie	Metzgar	Smith, K.
Burns	Gingrich	Miccarelli	Smith, M.
Buxton	Godshall	Micozzie	Sonney
Caltagirone	Goodman	Millard	Staback
Carroll	Grove	Miller	Stephens
Causar	Hackett	Mirabito	Stern
Christiana	Hahn	Moul	Stevenson
Clymer	Haluska	Mundy	Sturla
Cohen	Hanna	Murphy	Swanger
Conklin	Harhai	Murt	Tallman
Costa, P.	Harhart	Mustio	Taylor
Cox	Harkins	Myers	Thomas
Creighton	Harper	Neuman	Tobash
Cruz	Harris	O'Brien, M.	Toepel
Culver	Heffley	O'Neill	Toohil
Curry	Helm	Oberlander	Truitt
Daley	Hennessey	Parker	Turzai
Davidson	Hess	Pashinski	Vereb
Davis	Hickernell	Payne	Vitali
Day	Hornaman	Peifer	Vulakovich
Deasy	Hutchinson	Perry	Wagner
DeLissio	Johnson	Petrarca	Waters
Delozier	Josephs	Petri	Watson
DeLuca	Kampf	Pickett	Wheatley
Denlinger	Kauffman	Preston	White
DePasquale	Kavulich	Pyle	Williams
Dermody	Keller, F.	Quigley	Youngblood
DeWeese	Keller, W.	Quinn	
DiGirolamo	Killion	Rapp	Smith, S.,
Donatucci	Kirkland	Ravenstahl	Speaker
Dunbar	Knowles		

NAYS—7

Cutler	Grell	Milne	Samuelson
Galloway	Lawrence	Mullery	

NOT VOTING—0

EXCUSED—8

Boyd Costa, D. Keller, M.K. Payton
Brooks Evans, J. O'Brien, D. Simmons

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Mr. **MILLER** offered the following amendment No. **A07885**:

Amend Bill, page 22, lines 21 and 22, by striking out "OR THE TRUST" in line 21 and "INDENTURE" in line 22 and inserting fees of the bond trustee

Amend Bill, page 22, line 27, by inserting after "agreement" or the trust indenture

Amend Bill, page 25, line 19, by inserting after "into" a trust indenture.

Amend Bill, page 28, line 29, by striking out "IN THE BOND" and inserting as otherwise provided by the trust

Amend Bill, page 29, line 2, by striking out "principle" and inserting principal

Amend Bill, page 29, line 3, by striking out "principle" and inserting principal

On the question,
Will the House agree to the amendment?

The **SPEAKER** pro tempore. On that question, the Chair recognizes the gentleman, Mr. Miller.

Mr. **MILLER**. Thank you, Mr. Speaker.

This is an agreed-to amendment to clean up some of the language in the bill, and I would ask for an affirmative vote.

The **SPEAKER** pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Samuelson.

Mr. **SAMUELSON**. Thank you, Mr. Speaker.

I would like to interrogate the chair of the Labor Committee.

The **SPEAKER** pro tempore. The gentleman, Mr. Miller, agrees, and you may proceed.

Mr. **SAMUELSON**. Thank you.

I notice on this amendment, line 3, it looks like it is adding language that says "fees of the bond trustee." Now, are you adding additional fees to these bonds that do not exist in the bill right now, or are fees of the bond trustee referred to somewhere else?

Mr. **MILLER**. Thank you, Mr. Speaker.

I do not believe that we are adding any fees to the legislation or to the bonds. I believe what it does is it is clarifying language to just say that it is possible to have fees charged. The fees of the bond trustee are payable.

Mr. **SAMUELSON**. And are there any limits on what the fees of these bond trustees could be?

Mr. **MILLER**. That is not specified in the bill. I believe it would be what is customary when these types of bonds are issued.

Mr. **SAMUELSON**. And final question, if these bonds are in the magnitude of \$3 to \$4 billion, what level of fees would be associated with these bonds? What is an estimate of the fees associated with a bond of \$3, \$3 1/2 billion?

Mr. **MILLER**. I cannot answer that question. I believe that this is a competitive system and there are a certain amount of fees that will be incurred, but for me to give you a figure, I cannot do that, Mr. Speaker.

Mr. **SAMUELSON**. I appreciate the gentleman's answer about being a competitive system, but the amendment which we just passed, which was an improvement of the language, says that they really should do competitive bidding, but there was a plan B where they do not have to. Now, I realize the original bill did not have competitive bidding at all, so the amendment that the majority of this House just approved was an improvement, but if we do not have competitive bidding or if they opt for that plan B, how would we know we are getting the best deal for the taxpayer? On a bond which could be in the billions, if a fee is just 1 percent, that could be \$35 million. If a fee is 2 percent, that could be \$70 million. We are talking about significant possible fees here.

Mr. **MILLER**. Thank you, Mr. Speaker.

I do not disagree that we are talking about significant fees, but again, these are bonds that will go out for competitive bid. But even if that fails, the Secretary of Labor does not have to approve anything that would be, you know, out of the ordinary. I believe that the marketplace builds this into their pricing, when these bonds are done. But I cannot answer your question other than that, Mr. Speaker.

Mr. **SAMUELSON**. Thank you, Mr. Speaker.

The **SPEAKER** pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—194

Adolph	Ellis	Knowles	Rapp
Aument	Emrick	Kortz	Ravenstahl
Baker	Evankovich	Kotik	Readshaw
Barbin	Evans, D.	Krieger	Reed
Barrar	Everett	Kula	Reese
Bear	Fabrizio	Lawrence	Reichley
Benninghoff	Farry	Longietti	Roae
Bishop	Fleck	Maher	Rock
Bloom	Frankel	Mahoney	Roebuck
Boback	Freeman	Major	Ross
Boyle, B.	Gabler	Maloney	Sabatina
Boyle, K.	Galloway	Mann	Saccone
Bradford	Geist	Markosek	Sainato
Brennan	George	Marshall	Santarsiero
Briggs	Gerber	Marsico	Santoni
Brown, R.	Gergely	Masser	Saylor
Brown, V.	Gibbons	Matzie	Scavello
Brownlee	Gillen	McGeehan	Schroder
Burns	Gillespie	Metcalfe	Shapiro
Buxton	Gingrich	Metzgar	Smith, K.
Caltagirone	Godshall	Miccarelli	Smith, M.
Carroll	Goodman	Micozzie	Sonney
Causer	Grell	Millard	Staback
Christiana	Grove	Miller	Stephens

Clymer	Hackett	Milne	Stern
Cohen	Hahn	Mirabito	Stevenson
Conklin	Haluska	Moul	Sturla
Costa, P.	Hanna	Mullery	Swanger
Cox	Harhai	Mundy	Tallman
Creighton	Harhart	Murphy	Taylor
Cruz	Harkins	Murt	Thomas
Culver	Harper	Mustio	Tobash
Curry	Harris	Myers	Toepel
Cutler	Heffley	Neuman	Toohil
Daley	Helm	O'Brien, M.	Truitt
Davidson	Hennessey	O'Neill	Turzai
Davis	Hess	Oberlander	Vereb
Day	Hickernell	Parker	Vitali
Deasy	Hornaman	Pashinski	Vulakovich
DeLissio	Hutchinson	Payne	Wagner
Delozier	Johnson	Peifer	Waters
DeLuca	Josephs	Perry	Watson
Denlinger	Kampf	Petrarca	Wheatley
DePasquale	Kauffman	Petri	White
Dermody	Kavulich	Pickett	Williams
DeWeese	Keller, F.	Preston	Youngblood
DiGirolamo	Keller, W.	Pyle	
Donatucci	Killion	Quigley	Smith, S.,
Dunbar	Kirkland	Quinn	Speaker

NAYS—1

Samuelson

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Vitali, rise?

Mr. VITALI. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. VITALI. Some important issues have been raised with regard to fees and compensation, and I am just wondering, what would be the proper motion if we wanted to sort of put this a little further into the future so that if other members wanted to tweak it with other amendments, they could do that? What would be the proper motion there? Motion to postpone? Motion to table? Something that would keep it on second so if someone wanted to take another shot at tightening up the language that has been introduced, what would be the right motion to do that?

The SPEAKER pro tempore. I believe the proper motion would be a motion to postpone.

Mr. VITALI. Now, do you need a date certain for that when you make that motion, if I may further inquire?

The SPEAKER pro tempore. You would not need a date certain.

MOTION TO POSTPONE

Mr. VITALI. Well, I am going to make that motion, and then I will make argument on that.

The SPEAKER pro tempore. The gentleman, Mr. Vitali, makes the motion for postponement.

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

The SPEAKER pro tempore. On that motion, the gentleman, Mr. Vitali, is recognized.

Mr. VITALI. Thank you, Mr. Speaker.

I think it is important, there is just an enormous amount of money involved here, and I think one of the makers made the point, in looking at the very good language of the gentleman from Philadelphia, that there was a lot of discretion. And I am a lawyer and I read that language, and then the second piece of this, when you got beyond competitive bidding it seemed to give a lot of discretion not to competitive bid. And I remember years ago I was very deeply involved with bidding out bonds and legislation to reform that, and we, I remember – I do not have all the details now – but we were talking about bidding out the various components: the bond counsel, the printing, the other pieces associated with this. And now that we are thinking about this issue, I am just wondering whether this might be a good time to let this bill hang out there a bit so those who might be interested in making sure the taxpayers get every cent of the proceeds they are entitled to, maybe we will just keep it out there a bit so that other people can take a crack at tightening this language up. I mean, because not bidding out a bond can be a tremendous source of political mischief. We are all familiar with the term "pay-to-play" and how sometimes certain services are exchanged with a wink and a nod.

The SPEAKER pro tempore. Will the gentleman suspend. Are you now arguing your position or are you— We want to stay on the motion to postpone.

Mr. VITALI. Right. I am sort of laying out good policy reasons for why we might want to consider postponing, just to make the chamber aware of things that might happen should they not postpone and tweak this a little more. So I will just wrap up.

There are a lot of opportunities for mischief, and historically, there has been a ton of mischief in bond bidding. If I am hearing this correctly, and this is one of the biggest bonds in the history of the Commonwealth, then it might do us good to put this off a little bit and have us tighten this up a bit. So I would move to postpone.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Keller.

Mr. W. KELLER. Thank you, Mr. Speaker.

Unfortunately, Mr. Speaker, I will have to oppose this motion to postpone. This is time-sensitive and I believe we have worked on this sufficiently enough, and with the last amendment, we will take away a lot of the concerns he has. And on final passage, I will be arguing that this is really not enough in bonding. So hopefully we will have another crack at it and you can get some amendments filed timely, but this has been on the calendar. This is timely. Unfortunately, I do not believe we can, just as the gentleman says, let this hang around and take a look at it. We have looked at it in committee. We have done our due diligence. I believe we have changed the bill for the better,

both in committee and on the floor today, and unfortunately, I will have to oppose the gentleman's motion to postpone.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Does the gentleman, Mr. Mustio, seek recognition?

The gentleman is recognized.

Mr. MUSTIO. My comments were not on the motion, so I will wait until the—

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition?

The gentleman, Mr. Miller, is recognized.

Mr. MILLER. I would just ask the members to oppose this motion to postpone. The Democratic chairman of the committee made the point very clearly: It is time-sensitive and we need to move this legislation now. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—8

Freeman	Samuelson	Vitali	Wheatley
Galloway	Santarsiero	Wagner	Youngblood

NAYS—187

Adolph	Dunbar	Kirkland	Pyle
Aument	Ellis	Knowles	Quigley
Baker	Emrick	Kortz	Quinn
Barbin	Evankovich	Kotik	Rapp
Barrar	Evans, D.	Krieger	Ravenstahl
Bear	Everett	Kula	Readshaw
Benninghoff	Fabrizio	Lawrence	Reed
Bishop	Farry	Longietti	Reese
Bloom	Fleck	Maher	Reichley
Boback	Frankel	Mahoney	Roae
Boyle, B.	Gabler	Major	Rock
Boyle, K.	Geist	Maloney	Roebuck
Bradford	George	Mann	Ross
Brennan	Gerber	Markosek	Sabatina
Briggs	Gergely	Marshall	Saccone
Brown, R.	Gibbons	Marsico	Sainato
Brown, V.	Gillen	Masser	Santoni
Brownlee	Gillespie	Matzie	Saylor
Burns	Gingrich	McGeehan	Scavello
Buxton	Godshall	Metcalfe	Schroder
Caltagirone	Goodman	Metzgar	Shapiro
Carroll	Grell	Miccarelli	Smith, K.
Causar	Grove	Micozzie	Smith, M.
Christiana	Hackett	Millard	Sonney
Clymer	Hahn	Miller	Staback
Cohen	Haluska	Milne	Stephens
Conklin	Hanna	Mirabito	Stern
Costa, P.	Harhai	Moul	Stevenson
Cox	Harhart	Mullery	Sturla
Creighton	Harkins	Mundy	Swanger
Cruz	Harper	Murphy	Tallman
Culver	Harris	Murt	Taylor
Curry	Heffley	Mustio	Thomas
Cutler	Helm	Myers	Tobash
Daley	Hennessey	Neuman	Toepel
Davidson	Hess	O'Brien, M.	Toohil
Davis	Hickernell	O'Neill	Truitt
Day	Hornaman	Oberlander	Turzai
Deasy	Hutchinson	Parker	Vereb
DeLissio	Johnson	Pashinski	Vulakovich

DeLozier	Josephs	Payne	Waters
DeLuca	Kampf	Peifer	Watson
Denlinger	Kauffman	Perry	White
DePasquale	Kavulich	Petrarca	Williams
Dermody	Keller, F.	Petri	
DeWeese	Keller, W.	Pickett	Smith, S.,
DiGirolamo	Killion	Preston	Speaker
Donatucci			

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Miss **PARKER** offered the following amendment
No. **A07728**:

Amend Bill, page 30, by inserting between lines 3 and 4
Section 1410. Annual report required.
No later than March 1 of the year following the first full year in which bonds have been issued under this article, and for each year thereafter in which bond obligations existed in the prior year, the department shall submit an annual report to the chairman and minority chairman of the Labor and Industry Committee of the Senate and to the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives providing all data available on bonds issued or existing in the prior year. The report shall include, but not be limited to, existing and anticipated bond principal, interest and administrative costs, revenue, repayments, refinancing, annual savings to employers and any other relevant data, facts and statistics that the department believes necessary in the content of the report.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes Miss Parker.

Miss PARKER. Thank you, Mr. Speaker.

Mr. Speaker, this amendment simply adds language to SB 1310 that would require the Department of Labor and Industry to make annual reports to both the House and the Senate Labor and Industry Committees, providing all available data on the bonds from the prior year. And more specifically, Mr. Speaker, it adds a new section, which is section 1410, that requires that no later than March 1 of the year following the first full year in which the bonds have been issued, and for each year thereafter in which the bond obligations existed in the prior year, the department shall submit an annual report to both the majority and minority chairmen of the House and Senate Labor and Industry Committees and provide all data available. This may include, for example, existing and anticipated bond principles, interest and administrative costs, the revenue, the repayments, the refinancing, and the annual savings to the employers.

In addition to that, Mr. Speaker, I just wanted to note for the record that during our committee meeting on this bill, our majority general counsel, along with our minority chairman tonight during debate on another amendment, noted that this \$4.5 billion in bonds is actually the largest bond issuance that any State has authorized for the repayment of the Federal unemployment loan debt. And we just think it is a great way to ensure that members of both the House and the Senate, via Labor Relations Committees on both sides of the aisle in each chamber, are made fully aware. And I believe, Mr. Speaker, that this is an agreed-to amendment, and I would ask for my colleagues' support.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

Yes, this is an agreed-to amendment, and we would ask for a positive vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—195

Adolph	Emrick	Kortz	Ravenstahl
Aument	Evankovich	Kotik	Readshaw
Baker	Evans, D.	Krieger	Reed
Barbin	Everett	Kula	Reese
Barrar	Fabrizio	Lawrence	Reichley
Bear	Farry	Longiotti	Roe
Benninghoff	Fleck	Maher	Rock
Bishop	Frankel	Mahoney	Roebuck
Bloom	Freeman	Major	Ross
Boback	Gabler	Maloney	Sabatina
Boyle, B.	Galloway	Mann	Saccone
Boyle, K.	Geist	Markosek	Sainato
Bradford	George	Marshall	Samuelson
Brennan	Gerber	Marsico	Santarsiero
Briggs	Gergely	Masser	Santoni
Brown, R.	Gibbons	Matzie	Saylor
Brown, V.	Gillen	McGeehan	Scavello
Brownlee	Gillespie	Metcalfe	Schroder
Burns	Gingrich	Metzgar	Shapiro
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causar	Grove	Miller	Staback
Christiana	Hackett	Milne	Stephens
Clymer	Hahn	Mirabito	Stern
Cohen	Haluska	Moul	Stevenson
Conklin	Hanna	Mullery	Sturla
Costa, P.	Harhai	Mundy	Swanger
Cox	Harhart	Murphy	Tallman
Creighton	Harkins	Murt	Taylor
Cruz	Harper	Mustio	Thomas
Culver	Harris	Myers	Tobash
Curry	Heffley	Neuman	Toepel
Cutler	Helm	O'Brien, M.	Toohil
Daley	Hennessey	O'Neill	Truitt
Davidson	Hess	Oberlander	Turzai
Davis	Hickernell	Parker	Verreb
Day	Hornaman	Pashinski	Vitali
Deasy	Hutchinson	Payne	Vulakovich
DeLissio	Johnson	Peifer	Wagner
Delozier	Josephs	Perry	Waters

DeLuca	Kampf	Petrarca	Watson
Denlinger	Kauffman	Petri	Wheatley
DePasquale	Kavulich	Pickett	White
Dermody	Keller, F.	Preston	Williams
DeWeese	Keller, W.	Pyle	Youngblood
DiGirolamo	Killion	Quigley	
Donatucci	Kirkland	Quinn	Smith, S.,
Dunbar	Knowles	Rapp	Speaker
Ellis			

NAYS—0

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Mr. **HARKINS** offered the following amendment No. **A07729**:

Amend Bill, page 38, by inserting between lines 4 and 5
Section 1510. Report required.

Within 240 days of the close of the amnesty period, the department shall submit a report to the chairman and minority chairman of the Labor and Industry Committee of the Senate and the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives detailing all data available on the administration of the program, the cost of the program, amounts recovered from employers and claimants and any relevant facts and statistics that the department believes necessary in the content of the report.

The SPEAKER pro tempore. On that question, the gentleman, Mr. Harkins, is recognized.

Mr. HARKINS. Thank you, Mr. Speaker.

This amendment, Mr. Speaker, would require a report of amnesty. This amendment would require the Department of Labor and Industry to issue a report to the House and Senate Labor Committees on the administration and usage of the amnesty program, authorized under SB 1310, within 240 days, 8 months, or the close of the program. The department has estimated that the amnesty program will generate \$17 million in revenue during its 3-month operation. It is my understanding that this is an agreed-to amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

Yes, this is an agreed-to amendment, and I would ask for a positive vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—195

Adolph	Emrick	Kortz	Ravenstahl
Aument	Evankovich	Kotik	Readshaw
Baker	Evans, D.	Krieger	Reed
Barbin	Everett	Kula	Reese
Barrar	Fabrizio	Lawrence	Reichley
Bear	Farry	Longietti	Roae
Benninghoff	Fleck	Maher	Rock
Bishop	Frankel	Mahoney	Roebuck
Bloom	Freeman	Major	Ross
Boback	Gabler	Maloney	Sabatina
Boyle, B.	Galloway	Mann	Saccone
Boyle, K.	Geist	Markosek	Sainato
Bradford	George	Marshall	Samuelson
Brennan	Gerber	Marsico	Santarsiero
Briggs	Gergely	Masser	Santoni
Brown, R.	Gibbons	Matzie	Saylor
Brown, V.	Gillen	McGeehan	Scavello
Brownlee	Gillespie	Metcalfe	Schroder
Burns	Gingrich	Metzgar	Shapiro
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causser	Grove	Miller	Staback
Christiana	Hackett	Milne	Stephens
Clymer	Hahn	Mirabito	Stern
Cohen	Haluska	Moul	Stevenson
Conklin	Hanna	Mullery	Sturla
Costa, P.	Harhai	Mundy	Swanger
Cox	Harhart	Murphy	Tallman
Creighton	Harkins	Murt	Taylor
Cruz	Harper	Mustio	Thomas
Culver	Harris	Myers	Tobash
Curry	Heffley	Neuman	Toepel
Cutler	Helm	O'Brien, M.	Toohil
Daley	Hennessey	O'Neill	Truitt
Davidson	Hess	Oberlander	Turzai
Davis	Hickernell	Parker	Vereb
Day	Hornaman	Pashinski	Vitali
Deasy	Hutchinson	Payne	Vulakovich
DeLissio	Johnson	Peifer	Wagner
Delozier	Josephs	Perry	Waters
DeLuca	Kampf	Petrarca	Watson
Denlinger	Kauffman	Petri	Wheatley
DePasquale	Kavulich	Pickett	White
Dermody	Keller, F.	Preston	Williams
DeWeese	Keller, W.	Pyle	Youngblood
DiGirolamo	Killion	Quigley	
Donatucci	Kirkland	Quinn	Smith, S.,
Dunbar	Knowles	Rapp	Speaker
Ellis			

NAYS—0

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **B. BOYLE** offered the following amendment No. **A07684**:

Amend Bill, page 1, line 16, by inserting after "rate," for contributions by employees,
 Amend Bill, page 1, line 18, by inserting after "determination," for trigger rate redeterminations,
 Amend Bill, page 1, line 20, by striking out the comma after "Fund" where it occurs the second time and inserting
 and for Job Training Fund; providing for on-the-job training grant program; further providing
 Amend Bill, page 6, by inserting between lines 28 and 29
 Section 1.2. Section 301.4(a) and (b) of the act, amended October 19, 1988 (P.L.818, No.109), are amended to read:

Section 301.4. Contributions by Employes.—(a) Notwithstanding any other provision of this act, each employe shall contribute at a rate of four-hundredths of one per centum (0.04%) to the Unemployment Compensation Fund [at a rate of zero per centum (0.0%) for calendar year 1989 and at a rate as set forth in section 301.7 for each calendar year thereafter] and at a rate of four-hundredths of one per centum (0.04%) to the Job Training Fund of all wages paid for "employment" as defined by the act without regard to the limitation specified in section 4(x)(1) of this act.

(b) Each employer subject to this act shall be responsible for withholding and shall withhold, in trust, such contributions from the wages of his employes at the time such wages are paid, and shall report and transmit such deductions to the department for deposit into the Unemployment Compensation Fund and Job Training Fund, in accordance with rules and procedures established by the department.
 * * *

Amend Bill, page 9, line 4, by striking out "Section 301.7" and inserting

Sections 301.7 and 301.8(b) and (e)

Amend Bill, page 9, line 5, by striking out "is" and inserting are

Amend Bill, page 9, line 9, by inserting a bracket before the comma after "301.2"

Amend Bill, page 9, line 9, by inserting a bracket after "301.4"

Amend Bill, page 10, line 6, by inserting a bracket before the comma after "301.2"

Amend Bill, page 10, line 6, by inserting a bracket after "301.4"

Amend Bill, page 10, line 9, by inserting a bracket before the colon after "(125%)"

Amend Bill, page 10, line 10, by inserting after "the" where it occurs the first time

] the

Amend Bill, page 10, line 11, by inserting a bracket before the semicolon after "(4%)"

Amend Bill, page 10, line 13, by inserting a bracket after "(0.05%)"

Amend Bill, page 10, line 15, by inserting a bracket before the colon after "(110%)"

Amend Bill, page 10, line 16, by inserting after "the" where it occurs the first time

] the

Amend Bill, page 10, line 17, by inserting a bracket before the semicolon after "(8%)"

Amend Bill, page 10, line 19, by inserting a bracket after "(0.1%)"

Amend Bill, page 10, line 24, by inserting a bracket before "(ii)"

Amend Bill, page 10, line 25, by inserting a bracket after "(0.15%);"

Amend Bill, page 11, line 3, by inserting a bracket before "(ii)"

Amend Bill, page 11, line 4, by inserting a bracket after "(0.2%);"

Amend Bill, page 11, line 10, by inserting after "(8%);"

and

Amend Bill, page 11, line 13, by inserting a bracket before the

semicolon after "(0.75%)"

Amend Bill, page 11, line 15, by inserting a bracket after "(0.2%)"

Amend Bill, page 11, by inserting between lines 23 and 24 Section 301.8. Trigger Rate Redeterminations.—* * *

(b) The rates shall be adjusted to yield the amounts indicated at the following trigger percentages:

(1) At least one hundred fifty per centum (150%), the negative surcharge assessed under section 301.5 shall result in an employer contribution reduction of eighteen million dollars (\$18,000,000).

(2) At least one hundred ten per centum (110%) but less than one hundred twenty-five per centum (125%), the surcharge assessed under section 301.5 shall yield fifty million dollars (\$50,000,000)[, and the employe tax under section 301.4 shall yield thirty-three million three hundred thirty-three thousand three hundred thirty-three dollars (\$33,333,333)].

(3) At least ninety-five per centum (95%) but less than one hundred ten per centum (110%), the surcharge assessed under section 301.5 shall yield one hundred million dollars (\$100,000,000)[, and the employe tax under section 301.4 shall yield sixty-six million six hundred sixty-six thousand six hundred sixty-six dollars (\$66,666,666)].

(4) At least seventy-five per centum (75%) but less than ninety-five per centum (95%), the surcharge assessed under section 301.5 shall yield one hundred million dollars (\$100,000,000), the additional contributions under section 301.2 shall yield seventy-five million dollars (\$75,000,000)[, and the employe tax under section 301.4 shall yield one hundred sixteen million six hundred sixty-six thousand six hundred sixty-six dollars (\$116,666,666)].

(5) At least fifty per centum (50%) but less than seventy-five per centum (75%), the surcharge assessed under section 301.5 shall yield one hundred million dollars (\$100,000,000), the additional contribution under section 301.2 shall yield one hundred fifty million dollars (\$150,000,000)[, and the employe tax under section 301.4 shall yield one hundred sixty-six million six hundred sixty-six thousand six hundred sixty-six dollars (\$166,666,666)].

(6) Less than fifty per centum (50%), the surcharge assessed under section 301.5 shall yield one hundred million dollars (\$100,000,000), the additional contribution under section 301.2 shall yield two hundred twenty-five million dollars (\$225,000,000)[, the employe tax under section 301.4 shall yield one hundred sixty-six million six hundred sixty-six thousand six hundred sixty-six dollars (\$166,666,666)], and the benefit reduction under section 404(e)(4) shall yield fifty-two million dollars (\$52,000,000).

* * *

(e) The redetermined rates shall be rounded in accordance with the following schedule:

(1) If the rate for the surcharge assessed under section 301.5 is not a multiple of one-tenth of one per centum (0.1%), it shall be rounded to the next higher multiple of one-tenth of one per centum (0.1%).

[(2) If the rate for the employe tax under section 301.4 is not a multiple of one-hundredth of one per centum (0.01%), it shall be rounded to the next higher multiple of one-hundredth of one per centum (0.01%).]

(3) If the rate for the additional contribution under section 301.2 is not a multiple of five-hundredths of one per centum (0.05%), it shall be rounded to the next higher multiple of five-hundredths of one per centum (0.05%).

(4) If the rate for the benefit reduction under section 404(e)(4) is not a multiple of one-tenth of one per centum (0.1%), it shall be rounded to the next higher multiple of one-tenth of one per centum (0.1%).

Amend Bill, page 19, by inserting between lines 26 and 27

Section 4.1. Section 601.4 of the act, added June 15, 2005 (P.L.8, No.5), is amended to read:

Section 601.4. Job Training Fund.—(a) There is hereby created a special fund to be known as the Job Training Fund. Deposits in the

fund shall include contributions by employes under section 301.4, moneys transferred from the Special Administration Fund pursuant to section 601.1(b) and other moneys appropriated to the fund.

(b) Subject to the provisions of [subsections (c) and (d), the moneys in this fund are hereby appropriated, upon approval of the Governor, to the Department of Labor and Industry] subsection (b.1), the General Assembly shall annually appropriate to the Department of Labor and Industry from this fund such amounts as may be necessary for the following purposes:

(1) Job training programs for incumbent workers, dislocated workers, adult and youth workers, and any other work force development training program, including equipment and supplies.

(2) Job training equipment, subject to a requirement for matching funds from a source other than State funding.

(3) The costs of administering such training program.

(4) The costs of collecting interest and penalties under this act that are transferred from the Special Administration Fund.

(b.1) (1) Not less than fifty per centum (50%) of the total amount appropriated annually under subsection (b) shall be for the purpose of providing on-the-job training grants under section 601.5 of this act, including the costs of administering such grants.

(2) Not less than twenty-five per centum (25%) of the total amount appropriated annually under subsection (b) shall be for the purpose of funding industry partnerships under Chapter 13 of the act of December 18, 2001 (P.L.949, No.114), known as the Workforce Development Act.

(c) Moneys from the fund for purposes other than on-the-job training grants under section 601.5 and the Industry Partnership Program shall be made available in the following order of priority:

(1) Counties of the sixth, seventh and eighth class.

(2) Counties of the first, second, second A, third, fourth and fifth class, provided that there are insufficient applications for funding under paragraph (1) and to the extent that funds remains available.

(d) The department shall make funds available to eligible entities for job training programs under subsection (b)(1) and (2) as determined under subsection (e) based on a competitive application process as determined by the department. In distributing funding under this [section] subsection, preferential consideration shall be given to those counties with a higher unemployment rate. Distribution of funds shall be determined by review of all applications submitted by eligible entities within the time period authorized by the department.

(e) Funding shall be made available under subsections (b)(1) and (2) only for those entities identified in this section which provide work force education programs and services. Eligible entities shall include:

(1) Employment and training program providers receiving financial assistance from the Commonwealth or from other sources of public funding.

(2) Not-for-profit organizations offering publicly funded employment training programs.

(3) Career and technical institutes.

(4) High schools with eight or more vocational education programs.

(5) Higher education institutions offering publicly funded employment and training programs, including:

(i) State-related institutions and their branch campuses.

(ii) State-owned institutions within the State System of Higher Education under Article XX-A of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949."

(iii) Community colleges established and operated under Article XIX-A of the "Public School Code of 1949."

[(f) The moneys in this fund shall be continuously available for expenditure in accordance with the provisions of this section and shall not lapse at any time nor be transferred to any other fund.]

(g) For purposes of this section, the term "State-related institutions" shall include The Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University and any other institution that is hereafter designated as "State-related" by the Commonwealth.

Section 4.2. The act is amended by adding a section to read:

Section 601.5. On-the-Job Training Grant Program.—(a) Subject to available funds, the department shall provide grants to reimburse eligible employers for a portion of the cost of providing on-the-job training to newly hired employees as provided in this section.

(b) Grants provided under this section shall be in an amount equal to one-half of the weekly wage paid to a newly hired employe for up to eight weeks of employment, up to a maximum grant per employe of six thousand dollars (\$6,000).

(c) In order to be eligible to receive a grant under this section, an employer shall continuously employ the newly hired employe for a period of not less than six months at an hourly rate of not less than twelve dollars (\$12) per hour for not less than thirty (30) hours per week.

(d) For purposes of this section, the term "newly hired employe" shall mean an employe who:

(1) has received unemployment compensation benefits under this act, or under the unemployment compensation law of any other jurisdiction, within the twenty-four month period immediately preceding the date of hire;

(2) has not been employed by the employer requesting a grant under this section within the twelve-month period immediately preceding the date of hire; and

(3) has not been employed for more than thirty (30) hours per week at an hourly rate of twelve dollars (\$12) per hour or more during the four-week period immediately preceding the date of hire.

(e) The department shall allocate available funds under this section to the local work force investment boards which shall be responsible for initially determining which employers in each local work force investment area are eligible to receive grants under this section, subject to approval by the department.

(f) The department may adopt such regulations as may be necessary to implement this section.

Amend Bill, page 19, line 27, by striking out "4.1" and inserting 4.3

Amend Bill, page 38, line 12, by striking out "immediately." and inserting
as follows:

(1) The following provisions shall take effect January 1, 2012, or immediately, whichever is later:

(i) The amendment of section 301.4(a) and (b) of the act.

(ii) The amendment of section 301.7(b) of the act.

(iii) The amendment of section 301.8(b) and (e) of the act.

(iv) The amendment of section 601.4 of the act.

(v) The addition of section 601.5 of the act.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. It is the understanding of the Chair that the gentleman, Mr. Boyle, will be offering the amendment?

The gentleman, Mr. Boyle, is so recognized.

Mr. B. BOYLE. Thank you, Mr. Speaker.

Mr. Speaker, I offer this amendment, which is a job-creation amendment. It would take approximately 50 percent of the 0.08 contribution that employees make into the UC (unemployment compensation) Fund and direct that to three job training programs that already exist within the Commonwealth. Fifty percent of the 0.08 percent that is paid by employees would go to the on-the-job training grant program; 25 percent would go to the industry partnership program; and

the remaining 25 percent would go to the Job Training Fund. It is important to note that under Federal law, there is no requirement that we take funds from employees to pay into the UC Fund. Therefore, we as a Commonwealth do have discretion in terms of how these funds are allocated.

Certainly this would be a sensible way to help spur job growth and one of the best things we can do. As studies have repeatedly shown, one of the best things we can do to help job creation is to ensure that we have a well-trained workforce, so, Mr. Speaker, I would ask for an affirmative vote on this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

I oppose this amendment, not because of the fact that we do not want to have a well-trained workforce available and not because we do not want to provide job training to those that are unemployed, but we are working with a system that is insolvent, and we are looking at about \$150 million. Now, this system, the unemployment compensation system, has not one dime. Any money that we spend right now we are borrowing from the Federal government. We do not have money. So basically, this is just additional borrowing from the Federal government until this system is solvent again. We are working on an amnesty program to try to get people, employers that owe the system money, to pay up. It is a holding action. It is an attempt to bring some more money into the unemployment compensation system.

So for these reasons, Mr. Speaker, I ask for a negative vote on this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Boyle, for the second time.

Mr. B. BOYLE. Thank you, Mr. Speaker.

I appreciate the considered remarks of our Republican chair in the Labor Committee. I respectfully disagree, however, and just want to clear up the point.

This amendment would not require any additional borrowing whatsoever from the Federal government. We are talking about the employee portion of contributions into the UC Fund. Those contributions are not mandated by Federal law; therefore, it is incumbent upon us to take that 0.08 percent – that is about 8 cents for every \$1,000 that employees make – it is incumbent upon us to spend that in a way that helps those employees and helps create more employees.

The gentleman spoke about the insolvency program that we have with the UC Fund, and there is no question that our State, just like the 49 other States, has had a tough time over the last few years in dealing with the Great Recession and the effect that that has had on the UC Fund. Well, the best thing we can do to improve solvency in our UC Fund is to get more people back to work. This is an amendment that would help with that. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Mustio.

Mr. MUSTIO. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment.

The SPEAKER pro tempore. Will the gentleman agree? He has agreed to, and you may proceed.

Mr. MUSTIO. Thank you, Mr. Speaker.

The 0.08 that the employee is paying, where did that rate come into— Why are we charging that now? Why are the employees being charged that?

Mr. B. BOYLE. Mr. Speaker, the current rate of 0.08 percent is mandated by the trigger. This language would remove that trigger and fix it at the current 0.08 percent level, not any higher or any lower than where it currently sits.

Mr. MUSTIO. Well, where does that money that is currently being collected go? What is the purpose of it?

Mr. B. BOYLE. It goes into the trust fund.

Mr. MUSTIO. And then where does it go? I guess my question is, is it used to pay future benefits or used to pay down debt?

Mr. B. BOYLE. Mr. Speaker, the funds, they are currently paid out in a way that go toward benefits.

Mr. MUSTIO. So you are suggesting then that we take the money out of what is being used to pay benefits to transfer that over into job training programs. Am I understanding it correctly?

Mr. B. BOYLE. No, Mr. Speaker; that is not correct. There would absolutely be no reduction of benefits as a result of this amendment if it were adopted into this language.

Mr. MUSTIO. So we are going to continue to pay benefits, we just would have less money to pay for those benefits. So in essence, our debt would be rising, or what am I missing there?

Mr. B. BOYLE. Mr. Speaker, not to revisit I think old ground, the argument behind this amendment is that one of the ways that we can improve the UC solvency situation is to get more people back to work. The more people you have working, the fewer people you have drawing on unemployment benefits to begin with. It would be incomplete to simply look at this issue from a cash flow analysis. We have to look at it in the aggregate and comprehensively. If we get more people back to work, that would help the economy and also help the UC Trust Fund with the solvency issue in the long run.

Mr. MUSTIO. Thank you.

Mr. Speaker, on the amendment.

The SPEAKER pro tempore. On the amendment, the gentleman, Mr. Mustio, is recognized.

Mr. MUSTIO. I almost got whiplash when I heard that answer there. We just had probably a vote within the last year that talked about extending unemployment benefits, and at that point there was no discussion about limiting those benefits and getting people back to work.

Right now you are talking about increasing debt, and we are already in a situation where we have a trust fund that is insolvent. So to me it does not seem like we are in a position to go further into debt, and I wish you would repeat that argument when some further job-creating tax-reduction bills come up for a vote.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Keller.

Mr. W. KELLER. Thank you, Mr. Speaker.

I am glad we are hearing about insolvency, because that is the underlying problem with unemployment. The bill we are doing today, SB 1310, is not an insolvency bill. It does not address it. I will be talking on final passage that I think we should be addressing it and it is not. But the gentleman, Mr. Boyle, is making an attempt to find money – their own contributions of the employees, not the businesses, the

employees – where we could fund a job training program to get them off of unemployment. Everybody knows when people are laid off or unemployed, the number one issue is job training. We could take the money that they put into the fund and let that small amount be used for job training.

This is an attempt to fix insolvency. Even though this bill is a \$4.5 billion bill, it makes not one bit, a drop to fix insolvency. We should be all working, and we will be talking about it from now on out. Any attempt we can to fix insolvency we should take, and I think it is a small, minor step in fixing insolvency and helping the employees who are unemployed with their own contributions to fund to get off unemployment and take a step towards fixing insolvency. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Miller, for the second time.

Mr. MILLER. Thank you, Mr. Speaker.

I can agree that this is not a solvency bill, but it is also not a job training bill. And if we take money that is coming in from the employee contribution that is only triggered when the system is insolvent, it can only mean that we will have to borrow more money.

I ask for a negative vote. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—88

Bishop	DeLuca	Kavulich	Preston
Boyle, B.	DePasquale	Keller, W.	Ravenstahl
Boyle, K.	Dermody	Kirkland	Readshaw
Bradford	DeWeese	Kortz	Roebuck
Brennan	Donatucci	Kotik	Sabatina
Briggs	Evans, D.	Kula	Sainato
Brown, V.	Fabrizio	Longietti	Samuelson
Brownlee	Frankel	Mahoney	Santarsiero
Burns	Freeman	Mann	Santoni
Buxton	Galloway	Markosek	Shapiro
Caltagirone	George	Matzie	Smith, K.
Carroll	Gerber	McGeehan	Smith, M.
Cohen	Gergely	Mirabito	Staback
Conklin	Gibbons	Mullery	Sturla
Costa, P.	Goodman	Mundy	Thomas
Cruz	Haluska	Murphy	Vitali
Curry	Hanna	Myers	Wagner
Daley	Harhai	Neuman	Waters
Davidson	Harkins	O'Brien, M.	Wheatley
Davis	Hornaman	Parker	White
Deasy	Johnson	Pashinski	Williams
DeLissio	Josephs	Petrarca	Youngblood

NAYS—107

Adolph	Gabler	Major	Reese
Aument	Geist	Maloney	Reichley
Baker	Gillen	Marshall	Roae
Barbin	Gillespie	Marsico	Rock
Barrar	Gingrich	Masser	Ross
Bear	Godshall	Metcalfe	Saccone
Benninghoff	Grell	Metzgar	Saylor
Bloom	Grove	Miccarelli	Scavello
Boback	Hackett	Micozzie	Schroder
Brown, R.	Hahn	Millard	Sonney

Causser	Harhart	Miller	Stephens
Christiana	Harper	Milne	Stern
Clymer	Harris	Moul	Stevenson
Cox	Heffley	Murt	Swanger
Creighton	Helm	Mustio	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolo	Kauffman	Petri	Turzai
Dunbar	Keller, F.	Pickett	Vereb
Ellis	Killion	Pyle	Vulakovich
Emrick	Knowles	Quigley	Watson
Evankovich	Krieger	Quinn	
Everett	Lawrence	Rapp	Smith, S.,
Farry	Maher	Reed	Speaker
Fleck			

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The SPEAKER pro tempore. I just want to confirm that all other amendments have been withdrawn. Any other amendments?

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

The SPEAKER pro tempore. The House will be at ease.

**THE SPEAKER (SAMUEL H. SMITH)
PRESIDING**

* * *

The House proceeded to second consideration of **SB 560, PN 728**, entitled:

An Act establishing the State Military College Legislative Appointment Initiative Program.

On the question,

Will the House agree to the bill on second consideration?

Mr. **KILLION** offered the following amendment No. **A07732**:

Amend Bill, page 1, lines 1 and 2, by striking out all of said lines and inserting

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for definitions and for concurrent enrollment agreements; repealing provisions relating to charter schools; providing for charter school entities; establishing the State Military College Legislative Appointment Initiative Program; providing for educational improvement tax credit; and repealing provisions of the Tax Reform Code of 1971 relating to educational improvement tax credit.

Amend Bill, page 1, lines 5 through 17; page 2, lines 1 through 30; page 3, lines 1 through 27, by striking out all of said lines on said pages and inserting

Section 1. The definitions of "concurrent student" and "school entity" in section 1602-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, added July 13, 2005 (P.L.226, No.46), are amended and the section is amended by adding a definition to read:

Section 1602-B. Definitions.

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

* * *

"Charter school entity." As defined in section 1703-C.

* * *

"Concurrent student." A student who is enrolled in a school district, a charter school entity, an area vocational-technical school, a nonpublic school, a private school or a home education program under section 1327.1 and who takes a concurrent course through a concurrent enrollment program.

* * *

"School entity." A school district, a charter school entity or an area vocational-technical school.

* * *

Section 2. Section 1613-B of the act is amended by adding a subsection to read:

Section 1613-B. Concurrent enrollment agreements.

* * *

(c) Charter school entities.—Charter school entities shall have the power and authority to enter into a concurrent enrollment agreement with an institution of higher education, and appropriate credit shall be awarded to students concurrently enrolled under the agreement.

Section 3. Article XVII-A heading, Subdivision heading (a) and sections 1701-A and 1702-A, added June 19, 1997 (P.L.225, No.22), are repealed:

[ARTICLE XVII-A.

CHARTER SCHOOLS.

(a) Preliminary Provisions.

Section 1701-A. Short Title.—This article shall be known and may be cited as the "Charter School Law."

Section 1702-A. Legislative Intent.—It is the intent of the General Assembly, in enacting this article, to provide pupils and community members to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish all of the following:

(1) Improve pupil learning.

(2) Increase learning opportunities for all pupils.

(3) Encourage the use of different and innovative teaching methods.

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(6) Hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.]

Section 4. Section 1703-A of the act, amended June 29, 2002 (P.L.524, No.88), is repealed:

[Section 1703-A. Definitions.—As used in this article,

"Appeal board" shall mean the State Charter School Appeal Board established by this article.

"At-risk student" shall mean a student at risk of educational failure because of limited English proficiency, poverty, community factors, truancy, academic difficulties or economic disadvantage.

"Charter school" shall mean an independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

"Chief executive officer" shall mean an individual appointed by the board of trustees to oversee and manage the operation of the charter school, but who shall not be deemed a professional staff member under this article.

"Cyber charter school" shall mean an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means. A cyber charter school must be organized as a public, nonprofit corporation. A charter may not be granted to a for-profit entity.

"Department" shall mean the Department of Education of the Commonwealth.

"Local board of school directors" shall mean the board of directors of a school district in which a proposed or an approved charter school is located.

"Regional charter school" shall mean an independent public school established and operated under a charter from more than one local board of school directors and in which students are enrolled or attend. A regional charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

"School district of residence" shall mean the school district in this Commonwealth in which the parents or guardians of a child reside.

"School entity" shall mean a school district, intermediate unit, joint school or area vocational-technical school.

"Secretary" shall mean the Secretary of Education of the Commonwealth.

"State board" shall mean the State Board of Education of the Commonwealth.]

Section 5. Subdivision heading (b) of Article XVII-A of the act, added June 19, 1997 (P.L.225, No.22), is repealed:

[(b) Charter Schools.]

Section 5.1. Section 1714-A of the act, amended July 4, 2004 (P.L.536, No.70), is repealed:

[Section 1714-A. Powers of Charter Schools.—(a) A charter school established under this act is a body corporate and shall have all powers necessary or desirable for carrying out its charter, including, but not limited to, the power to:

(1) Adopt a name and corporate seal; however, any name selected shall include the words "charter school."

(2) Sue and be sued, but only to the same extent and upon the same condition that political subdivisions and local agencies can be sued.

(3) Acquire real property from public or private sources by purchase, lease, with an option to purchase or gift for use as a charter school facility.

(4) Receive and disburse funds for charter school purposes only.

(5) Make contracts and leases for the procurement of services, equipment and supplies.

(6) Incur temporary debts in anticipation of the receipt of funds.

(6.1) Incur debt for the construction of school facilities.

(7) Solicit and accept any gifts or grants for charter school purposes.

(b) A charter school shall have such other powers as are necessary to fulfill its charter and which are not inconsistent with this article.

(c) Any indebtedness incurred by a charter school in the exercise of the powers specified in this section shall not impose any liability or legal obligation upon a school entity or upon the Commonwealth.]

Section 5.2. Section 1715-A, added June 19, 1997 (P.L.225, No.22) and July 9, 2008 (P.L.846, No.61), is repealed:

[Section 1715-A. Charter School Requirements.—Charter schools shall be required to comply with the following provisions:

(1) Except as otherwise provided in this article, a charter school is exempt from statutory requirements established in this act, from regulations of the State board and the standards of the secretary not specifically applicable to charter schools. Charter schools are not exempt from statutes applicable to public schools other than this act.

(2) A charter school shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter. Strategies for meaningful parent and community involvement shall be developed and implemented by each school.

(3) A charter school shall not unlawfully discriminate in admissions, hiring or operation.

(4) A charter school shall be nonsectarian in all operations.

(5) A charter school shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the charter school.

(6) A charter school shall not advocate unlawful behavior.

(7) A charter school shall only be subject to the laws and regulations as provided for in section 1732-A, or as otherwise provided for in this article.

(8) A charter school shall participate in the Pennsylvania State Assessment System as provided for in 22 Pa. Code Ch. 5 (relating to curriculum), or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5, in the manner in which the school district in which the charter school is located is scheduled to participate.

(9) A charter school shall provide a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours per year of instruction at the elementary level, or nine hundred ninety (990) hours per year of instruction at the secondary level. Nothing in this clause shall preclude the use of computer and satellite linkages for delivering instruction to students.

(10) Boards of trustees and contractors of charter schools shall be subject to the following statutory requirements governing construction projects and construction-related work:

(i) The following provisions of this act:

(A) Sections 751 and 751.1.

(B) Sections 756 and 757 insofar as they are consistent with the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967."

(ii) Section 1 of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings."

(iii) The act of August 11, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act."

(iv) The "Public Works Contractors' Bond Law of 1967."

(v) The act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."

(11) Trustees of a charter school shall be public officials.

(12) A person who serves as an administrator for a charter school shall not receive compensation from another charter school or from a company that provides management or other services to another charter school. The term "administrator" shall include the chief executive officer of a charter school and all other employees of a charter school who by virtue of their positions exercise management or operational oversight responsibilities. A person who serves as an administrator for

a charter school shall be a public official under 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure). A violation of this clause shall constitute a violation of 65 Pa.C.S. § 1103(a) (relating to restricted activities), and the violator shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission.]

Section 5.3. Sections 1716-A, 1717-A, 1718-A and 1719-A, added June 19, 1997 (P.L.225, No.22), are repealed:

[Section 1716-A. Powers of Board of Trustees.—(a) The board of trustees of a charter school shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school's charter. The board shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school's charter and the provisions of this article.

(b) No member of a local board of school directors of a school entity shall serve on the board of trustees of a charter school that is located in the member's district.

(c) The board of trustees shall comply with the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."

Section 1717-A. Establishment of Charter School.—(a) A charter school may be established by an individual; one or more teachers who will teach at the proposed charter school; parents or guardians of students who will attend the charter school; any nonsectarian college, university or museum located in this Commonwealth; any nonsectarian corporation not-for-profit, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations); any corporation, association or partnership; or any combination thereof. A charter school may be established by creating a new school or by converting an existing public school or a portion of an existing public school. No charter school shall be established or funded by and no charter shall be granted to any sectarian school, institution or other entity. No funds allocated or disbursed under this article shall be used to directly support instruction pursuant to section 1327.1.

(b) (1) The conversion of an existing public school or portion of an existing public school to a charter school may be initiated by any individual or entity authorized to establish a charter school under subsection (a).

(2) In order to convert an existing public school to a charter school, the applicants must show that:

(i) More than fifty per centum of the teaching staff in the public school have signed a petition in support of the public school becoming a charter school; and

(ii) More than fifty per centum of the parents or guardians of pupils attending that public school have signed a petition in support of the school becoming a charter school.

(3) In no event shall the board of school directors serve as the board of trustees of an existing school which is converted to a charter school pursuant to this subsection.

(c) An application to establish a charter school shall be submitted to the local board of school directors of the district where the charter school will be located by November 15 of the school year preceding the school year in which the charter school will be established except that for a charter school beginning in the 1997-1998 school year, an application must be received by July 15, 1997. In the 1997-1998 school year only, applications shall be limited to recipients of fiscal year 1996-1997 Department of Education charter school planning grants.

(d) Within forty-five (45) days of receipt of an application, the local board of school directors in which the proposed charter school is to be located shall hold at least one public hearing on the provisions of the charter application, under the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act." At least forty-five (45) days must transpire between the first public hearing and the final decision of the board on the charter application except that for a charter school beginning in the 1997-1998 school year, only thirty (30) days must transpire between the first public hearing and the final decision of the board.

(e) (1) Not later than seventy-five (75) days after the first public

hearing on the application, the local board of school directors shall grant or deny the application. For a charter school beginning in the 1997-1998 school year, the local board of school directors shall grant or deny the application no later than sixty (60) days after the first public hearing.

(2) A charter school application submitted under this article shall be evaluated by the local board of school directors based on criteria, including, but not limited to, the following:

(i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held under subsection (d).

(ii) The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.

(iii) The extent to which the application considers the information requested in section 1719-A and conforms to the legislative intent outlined in section 1702-A.

(iv) The extent to which the charter school may serve as a model for other public schools.

(3) The local board of school directors, in the case of an existing school being converted to a charter school, shall establish the alternative arrangements for current students who choose not to attend the charter school.

(4) A charter application shall be deemed approved by the local board of school directors of a school district upon affirmative vote by a majority of all the directors. Formal action approving or denying the application shall be taken by the local board of school directors at a public meeting, with notice or consideration of the application given by the board, under the "Sunshine Act."

(5) Written notice of the board's action shall be sent to the applicant, the department and the appeal board. If the application is denied, the reasons for the denial, including a description of deficiencies in the application, shall be clearly stated in the notice sent by the local board of school directors to the charter school applicant.

(f) At the option of the charter school applicant, a denied application may be revised and resubmitted to the local board of school directors. Following the appointment and confirmation of the Charter School Appeal Board under section 1721-A, the decision of the local board of school directors may be appealed to the appeal board. When an application is revised and resubmitted to the local board of school directors, the board may schedule additional public hearings on the revised application. The board shall consider the revised and resubmitted application at the first board meeting occurring at least forty-five (45) days after receipt of the revised application by the board. For a revised application resubmitted for the 1997-1998 school year, the board shall consider the application at the first board meeting occurring at least thirty (30) days after its receipt. The board shall provide notice of consideration of the revised application under the "Sunshine Act." No appeal from a decision of a local school board may be taken until July 1, 1999.

(g) Notwithstanding the provisions of subsection (e)(5), failure by the local board of directors to hold a public hearing and to grant or deny the application for a charter school within the time periods specified in subsections (d), (e) and (f) shall permit the applicant for a charter to file its application as an appeal to the appeal board. In such case, the appeal board shall review the application and make a decision to grant or deny a charter based on the criteria established in subsection (e)(2).

(h) In the case of a review by the appeal board of an application that is revoked or is not renewed, the appeal board shall make its decision based on the criteria established in subsection (e)(2). A decision by the appeal board under this subsection or subsection (g) to grant, to renew or not to revoke a charter shall serve as a requirement for the local board of directors of a school district or school districts, as appropriate, to sign the written charter of the charter school as provided for in section 1720-A. Should the local board of directors fail to grant the application and sign the charter within ten (10) days of notice of

reversal of the decision of the local board of directors, the charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(1) The appeal board shall have the exclusive review of an appeal by a charter school applicant, or by the board of trustees of an existing charter school, of a decision made by a local board of directors not to grant a charter as provided in this section.

(2) In order for a charter school applicant to be eligible to appeal the denial of a charter by the local board of directors, the applicant must obtain the signatures of at least two per centum of the residents of the school district or of one thousand (1,000) residents, whichever is less, who are over eighteen (18) years of age. For a regional charter school, the applicant must obtain the signatures of at least two per centum of the residents of each school district granting the charter or of one thousand (1,000) residents from each of the school districts granting the charter, whichever is less, who are over eighteen (18) years of age. The signatures shall be obtained within sixty (60) days of the denial of the application by the local board of directors in accordance with clause (3).

(3) Each person signing a petition to appeal denial of a charter under clause (2) shall declare that he or she is a resident of the school district which denied the charter application and shall include his or her printed name; signature; address, including city, borough or township, with street and number, if any; and the date of signing. All pages shall be bound together. Additional pages of the petition shall be numbered consecutively. There shall be appended to the petition a statement that the local board of directors rejected the petition for a charter school, the names of all applicants for the charter, the date of denial by the board and the proposed location of the charter school. No resident may sign more than one petition relating to the charter school application within the sixty (60) days following denial of the application. The department shall develop a form to be used to petition for an appeal.

(4) Each petition shall have appended thereto the affidavit of some person, not necessarily a signer, setting forth all of the following:

(i) That the affiant is a resident of the school district referred to in the petition.

(ii) The affiant's residence, giving city, borough or township, with street and number, if any.

(iii) That the signers signed with full knowledge of the purpose of the petition.

(iv) That the signers' respective residences are correctly stated in the petition.

(v) That the signers all reside in the school district.

(vi) That each signer signed on the date set forth opposite the signer's name.

(vii) That to the best of the affiant's knowledge and belief, the signers are residents of the school district.

(5) If the required number of signatures are obtained within sixty (60) days of the denial of the application, the applicant may present the petition to the court of common pleas of the county in which the charter school would be situated. The court shall hold a hearing only on the sufficiency of the petition. The applicant and local board of school directors shall be given seven (7) days' notice of the hearing. The court shall issue a decree establishing the sufficiency or insufficiency of the petition. If the petition is sufficient, the decree shall be transmitted to the State Charter School Appeal Board for review in accordance with this section. Notification of the decree shall be given to the applicant and the local board of directors.

(6) In any appeal, the decision made by the local board of directors shall be reviewed by the appeal board on the record as certified by the local board of directors. The appeal board shall give due consideration to the findings of the local board of directors and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision. The appeal board shall have the discretion to allow the local board of directors and the charter school applicant to supplement the record if the supplemental information was previously unavailable.

(7) Not later than thirty (30) days after the date of notice of the

acceptance of the appeal, the appeal board shall meet to officially review the certified record.

(8) Not later than sixty (60) days following the review conducted pursuant to clause (6), the appeal board shall issue a written decision affirming or denying the appeal. If the appeal board has affirmed the decision of the local board of directors, notice shall be provided to both parties.

(9) A decision of the appeal board to reverse the decision of the local board of directors shall serve as a requirement for the local board of directors of a school district or school districts, as appropriate, to grant the application and sign the written charter of the charter school as provided for in section 1720-A. Should the local board of directors fail to grant the application and sign the charter within ten (10) days of notice of the reversal of the decision of the local board of directors, the charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(10) All decisions of the appeal board shall be subject to appellate review by the Commonwealth Court.

Section 1718-A. Regional Charter School.—(a) A regional charter school may be established by an individual, one or more teachers who will teach at the proposed charter school; parents or guardians of students who will attend the charter school; any nonsectarian college, university or museum located in this Commonwealth; any nonsectarian corporation not-for-profit, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations); any corporation, association or partnership; or any combination thereof. A regional charter school may be established by creating a new school or by converting an existing public school or a portion of an existing public school. Conversion of an existing public school to a regional charter school shall be accomplished in accordance with section 1714-A(b). No regional charter school shall be established or funded by and no charter shall be granted to any sectarian school, institution or other entity.

(b) The boards of school directors of one or more school districts may act jointly to receive and consider an application for a regional charter school, except that any action to approve an application for a charter or to sign a written charter of an applicant shall require an affirmative vote of a majority of all the directors of each of the school districts involved. The applicant shall apply for a charter to the board of directors of any school district in which the charter school will be located.

(c) The provisions of this article as they pertain to charter schools and the powers and duties of the local board of school directors of a school district and the appeal board shall apply to regional charter schools, except as provided in subsections (a) and (b) or as otherwise clearly stated in this article.

Section 1719-A. Contents of Application.—An application to establish a charter school shall include all of the following information:

(1) The identification of the charter applicant.

(2) The name of the proposed charter school.

(3) The grade or age levels served by the school.

(4) The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.

(5) The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.

(6) The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.

(7) Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 1318.

(8) Information on the manner in which community groups will be involved in the charter school planning process.

(9) The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.

(10) Procedures which shall be established to review complaints of parents regarding the operation of the charter school.

(11) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.

(12) Information on the proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of section 1502.

(13) The proposed faculty and a professional development plan for the faculty of a charter school.

(14) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school from participating in any extracurricular activity of that school district of residence: Provided, That the student is able to fulfill all of the requirements of participation in such activity and the charter school does not provide the same extracurricular activity.

(15) A report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students.

(16) An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.

(17) How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employes and the board of trustees of the charter school.]

Section 5.4. Section 1720-A of the act, amended July 9, 2008 (P.L.846, No.61), is repealed:

[Section 1720-A. Term and Form of Charter.—(a) Upon approval of a charter application under section 1717-A, a written charter shall be developed which shall contain the provisions of the charter application and which shall be signed by the local board of school directors of a school district, by the local boards of school directors of a school district in the case of a regional charter school or by the chairman of the appeal board pursuant to section 1717-A(i)(5) and the board of trustees of the charter school. This written charter, when duly signed by the local board of school directors of a school district, or by the local boards of school directors of a school district in the case of a regional charter school, and the charter school's board of trustees, shall act as legal authorization for the establishment of a charter school. This written charter shall be legally binding on both the local board of school directors of a school district and the charter school's board of trustees. Except as otherwise provided in subsection (b), the charter shall be for a period of no less than three (3) nor more than five (5) years and may be renewed for five (5) year periods upon reauthorization by the local board of school directors of a school district or the appeal board. A charter will be granted only for a school organized as a public, nonprofit corporation.

(b) (1) Notwithstanding subsection (a), a governing board of a school district of the first class may renew a charter for a period of one (1) year if the board of school directors determines that there is insufficient data concerning the charter school's academic performance to adequately assess that performance and determines that an additional year of performance data would yield sufficient data to assist the governing board in its decision whether to renew the charter for a period of five (5) years.

(2) A one-year renewal pursuant to paragraph (1) shall not be considered an adjudication and may not be appealed to the State Charter School Appeal Board.

(3) A governing board of a school district of the first class does not have the authority to renew a charter for successive one (1) year periods.]

Section 5.5. Section 1721-A of the act, added June 19, 1997 (P.L.225, No.22), is repealed:

[Section 1721-A. State Charter School Appeal Board.—(a) The State Charter School Appeal Board shall consist of the Secretary of Education and six (6) members who shall be appointed by the Governor by and with the consent of a majority of all the members of

the Senate. Appointments by the Governor shall not occur prior to January 1, 1999. The Governor shall select the chairman of the appeal board to serve at the pleasure of the Governor. The members shall include:

(1) A parent of a school-aged child.

(2) A school board member.

(3) A certified teacher actively employed in a public school.

(4) A faculty member or administrative employe of an institution of higher education.

(5) A member of the business community.

(6) A member of the State Board of Education.

The term of office of members of the appeal board, other than the secretary, shall be for a period of four (4) years or until a successor is appointed and qualified, except that, of the initial appointees, the Governor shall designate two (2) members to serve terms of two (2) years, two (2) members to serve terms of three (3) years and two (2) members to serve terms of four (4) years. Any appointment to fill any vacancy shall be for the period of the unexpired term or until a successor is appointed and qualified.

(b) The appeal board shall meet as needed to fulfill the purposes provided in this subsection. A majority of the members of the appeal board shall constitute a quorum, and a majority of the members of the appeal board shall have authority to act upon any matter properly before the appeal board. The appeal board is authorized to establish rules for its operation.

(c) The members shall receive no payment for their services. Members who are not employes of State government shall be reimbursed for expenses incurred in the course of their official duties from funds appropriated for the general government operations of the department.

(d) The department shall provide assistance and staffing for the appeal board. The Governor, through the Governor's General Counsel, shall provide such legal advice and assistance as the appeal board may require.

(e) Meetings of the appeal board shall be conducted under the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act." Documents of the appeal board shall be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.]

Section 5.6. Section 1722-A of the act, amended November 17, 2010 (P.L.996, No.104), is repealed:

[Section 1722-A. Facilities.—(a) A charter school may be located in an existing public school building, in a part of an existing public school building, in space provided on a privately owned site, in a public building or in any other suitable location.

(b) The charter school facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the pupils.

(d) Notwithstanding any other provision of this act, a school district of the first class may, in its discretion, permit a charter school to operate its school at more than one location.

(e) (1) Notwithstanding the provisions of section 204 of the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, all school property, real and personal, owned by any charter school, cyber charter school or an associated nonprofit foundation, or owned by a nonprofit corporation or nonprofit foundation and leased to a charter school, cyber charter school or associated nonprofit foundation at or below fair market value, that is occupied and used by any charter school or cyber charter school for public school, recreation or any other purposes provided for by this act, shall be made exempt from every kind of State, county, city, borough, township or other real estate tax, including payments in lieu of taxes established through agreement with the Commonwealth or any local taxing authority, as well as from all costs or expenses for paving, curbing, sidewalks, sewers or other municipal improvements, Provided, That any charter school or cyber charter school or owner of property leased to a charter school or cyber charter school may make a municipal improvement in a street on which its school property abuts or may contribute a sum toward the cost of the improvement.

(2) Any agreement entered into by a charter school, cyber charter school or associated nonprofit foundation with the Commonwealth or a local taxing authority for payments in lieu of taxes prior to December 31, 2009, shall be null and void.

(3) This subsection shall apply retroactively to all charter schools, cyber charter schools and associated nonprofit foundations that filed an appeal from an assessment, as provided in Article V of The General County Assessment Law, prior to the effective date of this subsection.

(4) For purposes of this subsection, "local taxing authority" shall include, but not be limited to, a county, city, borough, incorporated town, township or school district.]

Section 5.7. Section 1723-A of the act, amended or added June 26, 1999 (P.L.394, No.36) and July 9, 2008 (P.L.846, No.61), is repealed:

[Section 1723-A. Enrollment.—(a) All resident children in this Commonwealth qualify for admission to a charter school within the provisions of subsection (b). If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.

(b) (1) A charter school shall not discriminate in its admission policies or practices on the basis of intellectual ability, except as provided in paragraph (2), or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district.

(2) A charter school may limit admission to a particular grade level, a targeted population group composed of at-risk students, or areas of concentration of the school such as mathematics, science or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

(c) If available classroom space permits, a charter school may enroll nonresident students on a space-available basis, and the student's district of residence shall permit the student to attend the charter school. The terms and conditions of the enrollment shall be outlined in the school's charter.

(d) (1) Enrollment of students in a charter school or cyber charter school shall not be subject to a cap or otherwise limited by any past or future action of a board of school directors, a board of control established under Article XVII-B, a special board of control established under section 692 or any other governing authority, unless agreed to by the charter school or cyber charter school as part of a written charter pursuant to section 1720-A.

(2) The provisions of this subsection shall apply to a charter school or cyber charter school regardless of whether the charter was approved prior to or is approved subsequent to the effective date of this subsection.]

Section 5.8. Section 1724-A of the act, added June 29, 1997 (P.L.225, No.22), is repealed:

[Section 1724-A. School Staff.—(a) The board of trustees shall determine the level of compensation and all terms and conditions of employment of the staff except as may otherwise be provided in this article. At least seventy-five per centum of the professional staff members of a charter school shall hold appropriate State certification. Employees of a charter school may organize under the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employee Relations Act." The board of trustees of a charter school shall be considered an employer for the purposes of Article XI-A. Upon formation of one or more collective bargaining units at the school, the board of trustees shall bargain with the employees based on the provisions of this article, Article XI-A and the "Public Employee Relations Act." Collective

bargaining units at a charter school shall be separate from any collective bargaining unit of the school district in which the charter school is located and shall be separate from any other collective bargaining unit. A charter school shall be considered a school entity as provided for in section 1161-A for the purpose of the secretary seeking an injunction requiring the charter school to meet the minimum requirements for instruction as provided for in this article.

(b) Each charter application shall list the general qualifications needed to staff any noncertified positions. Professional employees who do not hold appropriate Pennsylvania certification must present evidence that they:

(i) Meet the qualifications in sections 1109 and 1209.

(ii) Have demonstrated satisfactorily a combination of experience, achievement and qualifications as defined in the charter school application in basic skills, general knowledge, professional knowledge and practice and subject matter knowledge in the subject area where an individual will teach.

(c) All employees of a charter school shall be enrolled in the Public School Employee's Retirement System in the same manner as set forth in 24 Pa.C.S. § 8301(a) (relating to mandatory and optional membership) unless at the time of the application for the charter school the sponsoring district or the board of trustees of the charter school has a retirement program which covers the employees or the employee is currently enrolled in another retirement program. The Commonwealth shall make contributions on behalf of charter school employees, and the charter school shall be considered a school district and shall make payments by employers and payments on account of Social Security as established under 24 Pa.C.S. Pt. IV (relating to retirement for school employees). For purposes of payments by employers, a charter school shall be considered a school district under 24 Pa.C.S. § 8329(a)(1) (relating to payments on account of social security deductions from appropriations). The market value/income aid ratio used in calculating payments as prescribed in this subsection shall be the market value/income aid ratio for the school district in which the charter school is located or, in the case of a regional charter school, shall be a composite market value/income aid ratio for the participating school districts as determined by the department. Except as otherwise provided, employees of a charter school shall make regular member contributions as required for active members under 24 Pa.C.S. Pt. IV. If the employees of the charter school participate in another retirement plan, then those employees shall have no concurrent claim on the benefits provided to public school employees under 24 Pa.C.S. Pt. IV. For purposes of this subsection, a charter school shall be deemed to be a "public school" as defined in 24 Pa.C.S. § 8102 (relating to definitions).

(d) Every employee of a charter school shall be provided the same health care benefits as the employee would be provided if he or she were an employee of the local district. The local board of school directors may require the charter school to provide the same terms and conditions with regard to health insurance as the collective bargaining agreement of the school district to include employee contributions to the district's health benefits plan. The charter school shall make any required employer's contribution to the district's health plan to an insurer, a local board of school directors or a contractual representative of school employees, whichever is appropriate to provide the required coverage.

(e) Any public school employee of a school entity may request a leave of absence for up to five (5) years in order to work in a charter school located in the district of employment or in a regional charter school in which the employing school district is a participant. Approval for a leave shall not be unreasonably withheld.

(f) Temporary professional employees on leave from a school district may accrue tenure in the non-charter public school system at the discretion of the local board of school directors, the same as they would under Article XI if they had continued to be employed by that district. Professional employees on leave from a school district shall retain their tenure rights, as defined in Article XI, in the school entity from which they came. No temporary professional employee or

professional employe shall have tenure rights as against a charter school. Both temporary professional employes and professional employes shall continue to accrue seniority in the school entity from which they came if they return to that school entity when the leave ends.

(g) Professional employes who hold a first level teaching or administrative certificate may, at their option, have the time completed in satisfactory service in a charter school applied to the length of service requirements for the next level of certification.

(h) (1) Any temporary professional employe or professional employe who leaves employment at a charter school shall have the right to return to a comparable position for which the person is properly certified in the school entity which granted the leave of absence. In the case where a teacher has been dismissed by the charter school, the school entity which granted the leave of absence is to be provided by the charter school with the reasons for such dismissal at the time it occurs, a list of any witnesses who were relied on by the charter school in moving for dismissal, a description of and access to any physical evidence used by the charter school in moving for dismissal and a copy of any record developed at any dismissal proceeding conducted by the charter school. The record of any such hearing may be admissible in a hearing before the school entity which granted the leave of absence. Nothing in this section shall affect the authority of the board of school directors to initiate proceedings under Article XI if the board determines that occurrences at the charter school leading to dismissal of a teacher constitute adequate and independent grounds for discipline under section 1122.

(2) No temporary employe or professional employe who is leaving employment at a charter school shall be returned to a position in the public school district which granted his leave of absence until such public school district is in receipt of a current criminal history record under section 111 and the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools).

(i) All individuals who shall have direct contact with students shall be required to submit a report of criminal history record information as provided for in section 111 prior to accepting a position with the charter school. This subsection shall also apply to any individual who volunteers to work on a full-time or part-time basis at the charter school.

(j) All applicants for a position as a school employe shall be required to submit the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2. This section shall also apply to any individual who volunteers to work on a full-time or part-time basis at a charter school.]

Section 5.9. Section 1725-A of the act, amended or added June 19, 1997 (P.L.225, No.22), June 22, 2001 (P.L.530, No.35) and June 29, 2002 (P.L.524, No.88), is repealed:

[Section 1725-A. Funding for Charter Schools.—(a) Funding for a charter school shall be provided in the following manner:

(1) There shall be no tuition charge for a resident or nonresident student attending a charter school.

(2) For non-special education students, the charter school shall receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the budgeted expenditures of the district of residence for nonpublic school programs; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; and other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems established by the department. This amount shall be paid by the district of residence of each student.

(3) For special education students, the charter school shall receive for each student enrolled the same funding as for each non-

special education student as provided in clause (2), plus an additional amount determined by dividing the district of residence's total special education expenditure by the product of multiplying the combined percentage of section 2509.5(k) times the district of residence's total average daily membership for the prior school year. This amount shall be paid by the district of residence of each student.

(4) A charter school may request the intermediate unit in which the charter school is located to provide services to assist the charter school to address the specific needs of exceptional students. The intermediate unit shall assist the charter school and bill the charter school for the services. The intermediate unit may not charge the charter school more for any service than it charges the constituent districts of the intermediate unit.

(5) Payments shall be made to the charter school in twelve (12) equal monthly payments, by the fifth day of each month, within the operating school year. A student enrolled in a charter school shall be included in the average daily membership of the student's district of residence for the purpose of providing basic education funding payments and special education funding pursuant to Article XXV. If a school district fails to make a payment to a charter school as prescribed in this clause, the secretary shall deduct the estimated amount, as documented by the charter school, from any and all State payments made to the district after receipt of documentation from the charter school.

(6) Within thirty (30) days after the secretary makes the deduction described in clause (5), a school district may notify the secretary that the deduction made from State payments to the district under this subsection is inaccurate. The secretary shall provide the school district with an opportunity to be heard concerning whether the charter school documented that its students were enrolled in the charter school, the period of time during which each student was enrolled, the school district of residence of each student and whether the amounts deducted from the school district were accurate.

(b) The Commonwealth shall provide temporary financial assistance to a school district due to the enrollment of students in a charter school who attended a nonpublic school in the prior school year in order to offset the additional costs directly related to the enrollment of those students in a public charter school. The Commonwealth shall pay the school district of residence of a student enrolled in a nonpublic school in the prior school year who is attending a charter school an amount equal to the school district of residence's basic education subsidy for the current school year divided by the district's average daily membership for the prior school year. This payment shall occur only for the first year of the attendance of the student in a charter school, starting with school year 1997-1998. Total payments of temporary financial assistance to school districts on behalf of a student enrolling in a charter school who attended a nonpublic school in the prior school year shall be limited to funds appropriated for this program in a fiscal year. If the total of the amount needed for all students enrolled in a nonpublic school in the prior school year who enroll in a charter school exceeds the appropriation for the temporary financial assistance program, the amount paid to a school district for each qualifying student shall be pro rata reduced. Receipt of funds under this subsection shall not preclude a school district from applying for a grant under subsection (c).

(c) The Commonwealth shall create a grant program to provide temporary transitional funding to a school district due to the budgetary impact relating to any student's first-year attendance at a charter school. The department shall develop criteria which shall include, but not be limited to, the overall fiscal impact on the budget of the school district resulting from students of a school district attending a charter school. The criteria shall be published in the Pennsylvania Bulletin. This subsection shall not apply to a public school converted to a charter school under section 1717-A(b). Grants shall be limited to funds appropriated for this purpose.

(d) It shall be lawful for any charter school to receive, hold, manage and use, absolutely or in trust, any devise, bequest, grant, endowment, gift or donation of any property, real or personal and/or

mixed, which shall be made to the charter school for any of the purposes of this article.

(e) It shall be unlawful for any trustee of a charter school or any board of trustees of a charter school or any other person affiliated in any way with a charter school to demand or request, directly or indirectly, any gift, donation or contribution of any kind from any parent, teacher, employe or any other person affiliated with the charter school as a condition for employment or enrollment and/or continued attendance of any pupil. Any donation, gift or contribution received by a charter school shall be given freely and voluntarily.]

Section 5.10. Section 1726-A of the act, amended July 11, 2006 (P.L.1092, No.114) and July 9, 2008 (P.L.846, No.61), is repealed:

[Section 1726-A. Transportation.—(a) Students who attend a charter school located in their school district of residence, a regional charter school of which the school district is a part or a charter school located outside district boundaries at a distance not exceeding ten (10) miles by the nearest public highway shall be provided free transportation to the charter school by their school district of residence on such dates and periods that the charter school is in regular session whether or not transportation is provided on such dates and periods to students attending schools of the district. Transportation is not required for elementary students, including kindergarten students, residing within one and one-half (1.5) miles or for secondary students residing within two (2) miles of the nearest public highway from the charter school in which the students are enrolled unless the road or traffic conditions are such that walking constitutes a hazard to the safety of the students when so certified by the Department of Transportation, except that if the school district provides transportation to the public schools of the school district for elementary students, including kindergarten students, residing within one and one-half (1.5) miles or for secondary students residing within two (2) miles of the nearest public highway under nonhazardous conditions, transportation shall also be provided to charter schools under the same conditions. Districts providing transportation to a charter school outside the district and, for the 2007-2008 school year and each school year thereafter, districts providing transportation to a charter school within the district shall be eligible for payments under section 2509.3 for each public school student transported.

(a.1) In addition to any other requirements in this section, school districts of the first class shall provide transportation to students who attend a charter school if they are the same age or are enrolled in the same grade, grades or their grade equivalents as any of the students of the school district for whom transportation is provided under any program or policy to the schools of the school district.

(b) In the event that the Secretary of Education determines that a school district is not providing the required transportation to students to the charter school, the Department of Education shall pay directly to the charter school funds for costs incurred in the transportation of its students. Payments to a charter school shall be determined in the following manner: for each eligible student transported, the charter school shall receive a payment equal to the total expenditures for transportation of the school district divided by the total number of school students transported by the school district under any program or policy.

(c) The department shall deduct the amount paid to the charter school under subsection (b) from any and all payments made to the district.

(d) A school district of the first class shall submit a copy of its current transportation policy to the department no later than August 1 of each year.]

Section 5.11. Sections 1727-A and 1728-A of the act, added June 19, 1997 (P.L.225, No.22), are repealed:

[Section 1727-A. Tort Liability.—For purposes of tort liability, employes of the charter school shall be considered public employes and the board of trustees shall be considered the public employer in the same manner as political subdivisions and local agencies. The board of trustees of a charter school and the charter school shall be solely liable for any and all damages of any kind resulting from any legal challenge

involving the operation of a charter school. Notwithstanding this requirement, the local board of directors of a school entity shall not be held liable for any activity or operation related to the program of the charter school.

Section 1728-A. Annual Reports and Assessments.—(a) The local board of school directors shall annually assess whether each charter school is meeting the goals of its charter and shall conduct a comprehensive review prior to granting a five (5) year renewal of the charter. The local board of school directors shall have ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and this act and that requirements for testing, civil rights and student health and safety are being met.

(b) In order to facilitate the local board's review and secretary's report, each charter school shall submit an annual report no later than August 1 of each year to the local board of school directors and the secretary in the form prescribed by the secretary.

(c) Five (5) years following the effective date of this article, the secretary shall contract with an independent professional consultant with expertise in public and private education. The consultant shall receive input from members of the educational community and the public on the charter school program. The consultant shall submit a report to the secretary, the Governor and the General Assembly and an evaluation of the charter school program, which shall include a recommendation on the advisability of the continuation, modification, expansion or termination of the program and any recommendations for changes in the structure of the program.]

Section 5.12. Section 1729-A of the act, amended or added June 19, 1997 (P.L.225, No.22), July 4, 2004 (P.L.536, No.70) and July 9, 2008 (P.L.846, No.61), is repealed:

[Section 1729-A. Causes for Nonrenewal or Termination.—(a) During the term of the charter or at the end of the term of the charter, the local board of school directors may choose to revoke or not to renew the charter based on any of the following:

(1) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A.

(2) Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A.

(3) Failure to meet generally accepted standards of fiscal management or audit requirements.

(4) Violation of provisions of this article.

(5) Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.

(6) The charter school has been convicted of fraud.

(a.1) When a charter school located in a school district of the first class is in corrective action status and seeks renewal of its charter, if the governing body of the school district of the first class renews the charter, it may place specific conditions in the charter that require the charter school to meet specific student performance targets within stated periods of time subject to the following:

(i) The performance targets and the periods of time in which the performance targets must be met shall be reasonable.

(ii) The placement of conditions in a charter as specified in this subsection shall not be considered an adjudication and may not be appealed to the State Charter School Appeal Board.

(iii) If the charter school fails to meet the performance targets within the stated period of time, such failure shall be sufficient cause for revocation of the charter.

(b) A member of the board of trustees who is convicted of a felony or any crime involving moral turpitude shall be immediately disqualified from serving on the board of trustees.

(c) Any notice of revocation or nonrenewal of a charter given by the local board of school directors of a school district shall state the

grounds for such action with reasonable specificity and give reasonable notice to the governing board of the charter school of the date on which a public hearing concerning the revocation or nonrenewal will be held. The local board of school directors shall conduct such hearing, present evidence in support of the grounds for revocation or nonrenewal stated in its notice and give the charter school reasonable opportunity to offer testimony before taking final action. Formal action revoking or not renewing a charter shall be taken by the local board of school directors at a public meeting pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act," after the public has had thirty (30) days to provide comments to the board. All proceedings of the local board pursuant to this subsection shall be subject to 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies). Except as provided in subsection (d), the decision of the local board shall not be subject to 2 Pa.C.S. Ch. 7 Subch. B (relating to judicial review of local agency action).

(d) Following the appointment and confirmation of the appeal board, but not before July 1, 1999, the charter school may appeal the decision of the local board of school directors to revoke or not renew the charter to the appeal board. The appeal board shall have the exclusive review of a decision not to renew or revoke a charter. The appeal board shall review the record and shall have the discretion to supplement the record if the supplemental information was previously unavailable. The appeal board may consider the charter school plan, annual reports, student performance and employe and community support for the charter school in addition to the record. The appeal board shall give due consideration to the findings of the local board of directors and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision.

(e) If the appeal board determines that the charter should not be revoked or should be renewed, the appeal board shall order the local board of directors to rescind its revocation or nonrenewal decision.

(f) Except as provided in subsection (g), the charter shall remain in effect until final disposition by the appeal board.

(g) In cases where the health or safety of the school's pupils, staff or both is at serious risk, the local board of school directors may take immediate action to revoke a charter.

(h) All decisions of the charter school appeal board shall be subject to appellate review by the Commonwealth Court.

(i) When a charter is revoked, not renewed, forfeited, surrendered or otherwise ceases to operate, the charter school shall be dissolved. After the disposition of any liabilities and obligations of the charter school, any remaining assets of the charter school, both real and personal, shall be distributed on a proportional basis to the school entities with students enrolled in the charter school for the last full or partial school year of the charter school. In no event shall such school entities or the Commonwealth be liable for any outstanding liabilities or obligations of the charter school.

(j) When a charter is revoked or is not renewed, a student who attended the charter school shall apply to another public school in the student's school district of residence. Normal application deadlines will be disregarded under these circumstances. All student records maintained by the charter school shall be forwarded to the student's district of residence.]

Section 5.13. Sections 1730-A and 1731-A of the act, added June 19, 1997 (P.L.225, No.22), are repealed:

[Section 1730-A. Desegregation Orders.—The local board of school directors of a school district which is operating under a desegregation plan approved by the Pennsylvania Human Relations Commission or a desegregation order by a Federal or State court shall not approve a charter school application if such charter school would place the school district in noncompliance with its desegregation order.

Section 1731-A. Charter School Grants.—(a) The secretary shall allocate grants for planning and start-up funding to eligible applicants under section 1717-A from funds appropriated for the implementation of this act.

(1) Planning grant applications shall be filed on a form and by a date determined by the secretary. The amount of a grant may vary

depending on the size and scope of the planning needed by the applicant. The application shall address the manner in which the applicant plans to address the criteria established for charter schools in sections 1715-A and 1717-A.

(2) Start-up funding grant applications shall be filed on a form and by a date determined by the secretary. The applicant for the charter school shall submit its application for a charter when applying for the grant. A grant for start-up funding may vary depending on the size and special characteristics of the charter school. A start-up grant may be used to meet the expenses of the charter school as established in their charter and as authorized in the provisions of this article.

(b) The applicant shall include a copy of a letter informing the local board of school directors of the school district of the application for the planning grant if the location of the proposed charter school is known. An applicant receiving a start-up funding grant shall notify the school district or districts signing the charter of receipt of this grant.]

Section 5.14. Section 1732-A, Subdivision (c) heading and sections 1741-A, 1742-A, 1743-A, 1744-A, 1745-A, 1746-A, 1747-A, 1748-A, 1749-A, 1750-A and 1751-A of the act, amended or added June 29, 2002 (P.L.524, No.88), are repealed:

[Section 1732-A. Provisions Applicable to Charter Schools.—(a) Charter schools shall be subject to the following:

Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1301, 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A, 1513, 1517, 1518, 1521, 1523, 1531, 1547, 2014-A, Article XIII-A and Article XIV.

Act of July 17, 1961 (P.L.776, No.341), known as the "Pennsylvania Fair Educational Opportunities Act."

Act of July 19, 1965 (P.L.215, No.116), entitled "An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities."

Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled "An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary institutions of higher learning, making an appropriation, and providing for the administration of this act."

Act of July 12, 1972 (P.L.765, No.181), entitled "An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations."

Act of December 15, 1986 (P.L.1595, No.175), known as the "Antihazing Law."

(b) Charter schools shall be subject to the following provisions of 22 Pa. Code:

Section 5.216 (relating to ESOL).

Section 5.4 (relating to general policies).

Chapter 11 (relating to pupil attendance).

Chapter 12 (relating to students).

Section 32.3 (relating to assurances).

Section 121.3 (relating to discrimination prohibited).

Section 235.4 (relating to practices).

Section 235.8 (relating to civil rights).

Chapter 711 (relating to charter school services and programs for children with disabilities).

(c) (1) The secretary may promulgate additional regulations relating to charter schools.

(2) The secretary shall have the authority and the responsibility to ensure that charter schools comply with Federal laws and regulations governing children with disabilities. The secretary shall promulgate regulations to implement this provision.

(c) Cyber Charter Schools.

Section 1741-A. Powers and duties of department.

(a) Powers and duties.—The department shall:

(1) Receive, review and act on applications for the creation of a cyber charter school and have the power to request

further information from applicants, obtain input from interested persons or entities and hold hearings regarding applications.

(2) Renew the charter of cyber charter school and renew the charter of a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means. Upon renewal of a charter of a charter school approved under section 1717-A or 1718-A, the charter school shall qualify as a cyber charter school under this subdivision and shall be subject to the provisions of this subdivision.

(3) Revoke or deny renewal of a cyber charter school's charter under the provisions of section 1729-A.

(i) Notwithstanding the provisions of section 1729-A(i), when the department has revoked or denied renewal of a charter, the cyber charter school shall be dissolved. After the disposition of the liabilities and obligations of the cyber charter school, any remaining assets of the cyber charter school shall be given over to the intermediate unit in which the cyber charter school's administrative office was located for distribution to the school districts in which the students enrolled in the cyber charter school reside at the time of dissolution.

(ii) Notwithstanding any laws to the contrary, the department may, after notice and hearing, take immediate action to revoke a charter if:

(A) a material component of the student's education as required under this subdivision is not being provided; or

(B) the cyber charter school has failed to maintain the financial ability to provide services as required under this subdivision.

(4) Execute charters after approval.

(5) Develop forms, including the notification form under section 1748-A(b), necessary to carry out the provisions of this subdivision.

(b) Hearings.—Hearings conducted by the department shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings).

(c) Documents.—Documents of the appeal board shall be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

Section 1742-A. Assessment and evaluation.

The department shall:

(1) Annually assess whether each cyber charter school is meeting the goals of its charter and is in compliance with the provisions of the charter and conduct a comprehensive review prior to granting a five-year renewal of the charter.

(2) Annually review each cyber charter school's performance on the Pennsylvania System of School Assessment test, standardized tests and other performance indicators to ensure compliance with 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.

(3) Have ongoing access to all records, instructional materials and student and staff records of each cyber charter school and to every cyber charter school facility to ensure the cyber charter school is in compliance with its charter and this subdivision.

Section 1743-A. Cyber charter school requirements and prohibitions.

(a) Special financial requirements prohibited.—A cyber charter school shall not:

(1) provide discounts to a school district or waive payments under section 1725-A for any student;

(2) except as provided for in subsection (e), provide payments to parents or guardians for the purchase of instructional materials; or

(3) except as compensation for the provision of specific services, enter into agreements to provide funds to a school entity.

(b) Enrollment.—A cyber charter school shall report to the department an increase or a decrease of 30% or more in its anticipated enrollment set forth in the application under section 1747-A(11).

(c) School district.—A cyber charter school shall make available upon request, either in writing or electronically, to each student's school district of residence the following:

(1) A copy of the charter.

(2) A copy of the cyber charter school application.

(3) A copy of all annual reports prepared by the cyber charter school.

(4) A list of all students from that school district enrolled in the cyber charter school.

(d) Parent or guardian.—Upon request and prior to the student's first day in a cyber charter school, the cyber charter school shall, either in writing or electronically, provide to the parent or guardian of a student the following:

(1) A list and brief description of the courses of instruction the student will receive. The list shall be updated annually for each grade level in which the student is enrolled.

(2) A description of the lessons and activities to be offered both online and offline.

(3) The manner in which attendance will be reported and work will be authenticated.

(4) A list of all standardized tests the student will be required to take during the school year and the place where the test will be administered, if available.

(5) The meetings to be held during the school year between a parent or guardian and a teacher and among other school officials or parents or guardians and the manner in which the parent or guardian will be notified of the time and place for the meeting.

(6) The address of the cyber charter school and the name, telephone number and e-mail address of the school administrator and other school personnel.

(7) A list of any extracurricular activities provided by the cyber charter school.

(8) The names of the student's teachers, if available, and the manner in which each teacher can be contacted by the student or the parent or guardian.

(9) A list of all services that will be provided to the student by the cyber charter school.

(10) Copies of policies relating to computer security and privacy, truancy, absences, discipline and withdrawal or expulsion of students.

(11) Information on:

(i) The cyber charter school's professional staff, including the number of staff personnel, their education level and experience.

(ii) The cyber charter school's performance on the PSSA and other standardized test scores.

(12) Information regarding the proper usage of equipment and materials and the process for returning equipment and materials supplied to the students by the cyber charter school. A parent or guardian shall acknowledge, either in writing or electronically, the receipt of this information.

(13) A description of the school calendar, including, but not limited to, the time frame that will constitute a school year and a school week, holidays and term breaks.

(e) Students.—For each student enrolled, a cyber charter school shall:

(1) provide all instructional materials;

(2) provide all equipment, including, but not limited to, a computer, computer monitor and printer; and

(3) provide or reimburse for all technology and services necessary for the on-line delivery of the curriculum and instruction.

The Commonwealth shall not be liable for any reimbursement owed to students, parents or guardians by a cyber charter school under

paragraph (3).

(f) Annual report.—A cyber charter school shall submit an annual report no later than August 1 of each year to the department in the form prescribed by the department.

(g) Records and facilities.—A cyber charter school shall provide the department with ongoing access to all records and facilities necessary for the department to assess the cyber charter school in accordance with the provisions of this subdivision.

(h) Offices and facilities.—A cyber charter school shall maintain an administrative office within this Commonwealth where all student records shall be maintained at all times and shall provide the department with the addresses of all offices and facilities of the cyber charter school, the ownership thereof and any lease arrangements. The administrative office of the cyber charter school shall be considered as the principal place of business for service of process for any action brought against the cyber charter school or cyber charter school staff members. The cyber charter school shall notify the department of any changes in this information within ten days of the change.

(i) Applicable law.—Any action taken against the cyber charter school, its successors or assigns or its employees, including any cyber charter school staff member as defined in the act of December 12, 1973 (P.L.397, No.141), known as the Professional Educator Discipline Act, shall be governed by the laws of this Commonwealth. If the department initiates an investigation or pursues an action pursuant to the Professional Educator Discipline Act involving any current or former charter school staff member outside this Commonwealth, any reasonable expenses incurred by the department in such investigation or action shall be paid by the cyber charter school which employed that staff member at the time of the alleged misconduct.

Section 1744-A. School district and intermediate unit responsibilities.

An intermediate unit or a school district in which a student enrolled in a cyber charter school resides shall do all of the following:

(1) Provide the cyber charter school within ten days of receipt of the notice of the admission of the student under section 1748-A(a) with all records relating to the student, including transcripts, test scores and a copy of any individualized education program for that student.

(2) Provide the cyber charter school with reasonable access to its facilities for the administration of standardized tests required under this subdivision.

(3) Upon request, provide assistance to the cyber charter school in the delivery of services to a student with disabilities. The school district or intermediate unit shall not charge the cyber charter school more for a service than it charges a school district.

(4) Make payments to the cyber charter school under section 1725-A.

Section 1745-A. Establishment of cyber charter school.

(a) Establishment.—A cyber charter school may be established by an individual; one or more teachers who will teach at the proposed cyber charter school; parents or guardians of students who will enroll in the cyber charter school; a nonsectarian college, university or museum located in this Commonwealth; a nonsectarian corporation not-for-profit as defined in 15 Pa.C.S. § 5103 (relating to definitions); a corporation, association or partnership; or any combination of the foregoing. Section 1327.1 shall not apply to a cyber charter school established under this subdivision.

(b) Sectarian entities.—No cyber charter school shall be established or funded by and no charter shall be granted to a sectarian school, institution or other entity.

(c) Attendance.—Attendance at a cyber charter school shall satisfy requirements for compulsory attendance.

(d) Application.—An application to establish a cyber charter school shall be submitted to the department by October 1 of the school year preceding the school year in which the cyber charter school proposes to commence operation.

(e) Grant or denial.—Within 120 days of receipt of an application, the department shall grant or deny the application. The department

shall review the application and shall hold at least one public hearing under 65 Pa.C.S. Ch. 7 (relating to open meetings). At least 30 days prior to the hearing, the department shall publish in the Pennsylvania Bulletin and on the department's World Wide Web site notice of the hearing and the purpose of the application.

(f) Evaluation criteria.—

(1) A cyber charter school application submitted under this subdivision shall be evaluated by the department based on the following criteria:

(i) The demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians and students.

(ii) The capability of the cyber charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students under the charter.

(iii) The extent to which the programs outlined in the application will enable students to meet the academic standards under 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.

(iv) The extent to which the application meets the requirements of section 1747-A.

(v) The extent to which the cyber charter school may serve as a model for other public schools.

(2) Written notice of the action of the department shall be sent by certified mail to the applicant and published on the department's World Wide Web site. If the application is denied, the reasons for denial, including a description of deficiencies in the application, shall be clearly stated in the notice.

(3) Upon approval of a cyber charter school application, a written charter shall be developed which shall contain the provisions of the charter application and be signed by the secretary and each member of the board of trustees of the cyber charter school. The charter, when duly signed, shall act as legal authorization of the establishment of a cyber charter school. The charter shall be legally binding on the department, the cyber charter school and its board of trustees. The charter shall be for a period of no less than three years nor more than five years and may be renewed for a period of five years by the department.

(4) The decision of the department to deny an application may be appealed to the appeal board.

(g) Denied application.—A cyber charter school applicant may revise and resubmit a denied application to the department. The department shall grant or deny the revised application within 60 days after its receipt.

(h) Appeal.—If the department fails to hold the required public hearing or to approve or disapprove the charter, the applicant may file its application as an appeal to the appeal board. The appeal board shall review the application and make a decision to approve or disapprove the charter based on the criteria in subsection (f).

Section 1746-A. State Charter School Appeal Board review.

(a) Jurisdiction.—The appeal board shall have the exclusive review of an appeal by a cyber charter school applicant or by the board of trustees of a cyber charter school on the decisions of the department, including:

- (1) The denial of an application for a charter.
- (2) The denial of a renewal of a charter.
- (3) The revocation of a charter.
- (4) An appeal under section 1745-A(h).

(b) Procedure.—The appeal board shall:

(1) Review the decision made by the department under subsection (a) on the record as certified by the department. The secretary shall recuse himself from all cyber charter school appeals and shall not participate in a hearing, deliberation or vote on a cyber charter school appeal. The appeal board may allow the department, the cyber charter school applicant or the board of trustees of a cyber charter school to supplement the record if the

supplemental information was previously unavailable.

(2) Meet to officially review the certified record no later than 30 days after the date of filing the appeal.

(3) Issue a written decision affirming or denying the appeal no later than 60 days following its review.

(4) In the case of a decision by the department to deny a cyber charter application, make its decision based on section 1745-A(f)(1). A decision by the appeal board to reverse the decision of the department and grant a charter shall serve as a requirement for the secretary to sign the written charter of the cyber charter school.

(5) In the case of a decision by the department to revoke or deny renewal of a cyber school charter in accordance with section 1741-A(a)(3), make its decision based on section 1729-A(a). A decision of the appeal board to reverse the decision of the department to not revoke or deny renewal of a charter shall serve as a requirement of the department to not revoke or to not deny renewal of the charter of the cyber charter school.

(c) Stay.—If the department appeals the decision of the appeal board, the appeal board's decision shall be stayed only upon order of the appeal board, the Commonwealth Court or the Pennsylvania Supreme Court.

(d) Review.—All decisions of the appeal board shall be subject to appellate review by the Commonwealth Court.

Section 1747-A. Cyber charter school application.

In addition to the provisions of section 1719-A, an application to establish a cyber charter school shall also include the following:

(1) The curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.

(2) The number of courses required for elementary and secondary students.

(3) An explanation of the amount of on-line time required for elementary and secondary students.

(4) The manner in which teachers will deliver instruction, assess academic progress and communicate with students to provide assistance.

(5) A specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions.

(6) The technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student.

(7) A description of how the cyber charter school will define and monitor a student's school day, including the delineation of on-line and off-line time.

(8) A description of commercially prepared standardized achievement tests that will be used by the cyber charter school in addition to the Pennsylvania System of School Assessment test, including the grade levels that will be tested and how the data collected from the tests will be used to improve instruction.

(9) The technical support that will be available to students and parents or guardians.

(10) The privacy and security measures to ensure the confidentiality of data gathered online.

(11) The level of anticipated enrollment during each school year of the proposed charter, including expected increases due to the addition of grade levels.

(12) The methods to be used to insure the authenticity of student work and adequate proctoring of examinations.

(13) The provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized education programs.

(14) Policies regarding truancy, absences and withdrawal of students, including the manner in which the cyber charter school will monitor attendance consistent with the provisions of section 1715-A(9).

(15) The types and frequency of communication between the cyber charter school and the student and the manner in which the cyber charter school will communicate with parents and guardians.

(16) The addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements.

Section 1748-A. Enrollment and notification.

(a) Notice to school district.—

(1) Within 15 days of the enrollment of a student to a cyber charter school, the parent or guardian and the cyber charter school shall notify the student's school district of residence of the enrollment through the use of the notification form under subsection (b).

(2) If a school district which has received notice under paragraph (1) determines that a student is not a resident of the school district, the following apply:

(i) Within seven days of receipt of the notice under paragraph (1), the school district shall notify the cyber charter school and the department that the student is not a resident of the school district. Notification of nonresidence shall include the basis for the determination.

(ii) Within seven days of notification under subparagraph (i), the cyber charter school shall review the notification of nonresidence, respond to the school district and provide a copy of the response to the department. If the cyber charter school agrees that a student is not a resident of the school district, it shall determine the proper district of residence of the student before requesting funds from another school district.

(iii) Within seven days of receipt of the response under subparagraph (ii), the school district shall notify the cyber charter school that it agrees with the cyber charter school's determination or does not agree with the cyber charter school's determination.

(iv) A school district that has notified the cyber charter school that it does not agree with the cyber charter school's determination under subparagraph (iii) shall appeal to the department for a final determination.

(v) All decisions of the department regarding the school district of residence of a student shall be subject to review by the Commonwealth Court.

(vi) A school district shall continue to make payments to a cyber charter school under section 1725-A during the time in which the school district of residence of a student is in dispute.

(vii) If a final determination is made that a student is not a resident of an appealing school district, the cyber charter school shall return all funds provided on behalf of that student to the school district within 30 days.

(b) Notification form.—The department shall develop a notification form for use under subsection (a). The notification shall include:

(1) The name, home address and mailing address of the student.

(2) The grade in which the student is being enrolled.

(3) The date the student will be enrolled.

(4) The name and address of the cyber charter school and the name and telephone number of a contact person able to provide information regarding the cyber charter school.

(5) The signature of the parent or guardian and an authorized representative of the cyber charter school.

(c) Withdrawal.—The cyber charter school and the parent or guardian of a student enrolled in a cyber charter school shall provide written notification to the student's school district of residence within 15 days following the withdrawal of a student from the cyber charter

school.

Section 1749-A. Applicability of other provisions of this act and of other acts and regulations.

(a) General requirements.—Cyber charter schools shall be subject to the following:

(1) Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1301, 1302, 1310, 1317.2, 1318, 1330, 1332, 1303-A, 1518, 1521, 1523, 1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-A, 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-A, 1725-A, 1727-A, 1729-A, 1730-A, 1731-A(a)(1) and (b) and 2014-A and Articles XII-A, XIII-A and XIV.

(2) The act of July 17, 1961 (P.L.776, No.341), known as the Pennsylvania Fair Educational Opportunities Act.

(3) The act of July 19, 1965 (P.L.215, No.116), entitled "An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities."

(4) Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled "An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary institutions of higher learning, making an appropriation, and providing for the administration of this act."

(5) The act of July 12, 1972 (P.L.765, No.181) entitled "An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations."

(6) The act of December 15, 1986 (P.L.1595, No.175), known as the Antihazing Law.

(b) Regulations.—Cyber charter schools shall be subject to the following provisions of 22 Pa. Code (relating to education):

(1) Chapter 4 (relating to academic standards and assessment).

(2) Chapter 11 (relating to pupil attendance).

(3) Chapter 12 (relating to students).

(4) Section 32.3 (relating to assurances).

(5) Section 121.3 (relating to discrimination prohibited).

(6) Section 235.4 (relating to practices).

(7) Section 235.8 (relating to civil rights).

(8) Chapter 711 (relating to charter school services and programs for children with disabilities).

(c) Existing charter schools.—

(1) The charter of a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means shall remain in effect for the duration of the charter and shall be subject to the provisions of Subdivision (b).

(2) In addition to subsections (a) and (b), the following provisions of this subdivision shall apply to a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means:

(i) Section 1743-A(c), (d), (e), (h) and (i).

(ii) Section 1744-A.

(iii) Section 1748-A.

Section 1750-A. Effect on certain existing charter schools.

(a) Determination.—For a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means, prior to August 15, 2002, the department shall determine:

(1) whether the charter school is in compliance with this subdivision;

(2) whether the charter school has provided notification of the enrollment of each existing student to the school district of residence; and

(3) how the charter school plans to comply with section

1743-A(d).

(b) Notification of compliance.—Prior to August 15, 2002, the department shall:

(1) Notify each charter school and the chartering school district of the department's determination under subsection (a). The notification shall include specific requirements with which the charter school has failed to comply.

(2) Publish a copy of the notification on the department's World Wide Web site.

(c) Charter school requirement.—A charter school subject to the requirements of this section shall, either in writing or electronically, provide the parent or guardian of any student enrolled in the charter school a copy of the department's determination under subsection (b).

(d) School districts.—A school district shall not renew the charter of a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or approve a charter for a cyber charter school.

(e) Renewal of charter for certain existing charter schools.—Upon the expiration of its charter, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means shall seek renewal of its charter from the department under this subdivision. The charter shall be amended as needed to reflect the requirements of this subdivision.

Section 1751-A. Regulations.

The department may issue regulations to implement this subdivision.]

Section 6. The act is amended by adding articles to read:

ARTICLE XVII-C
CHARTER SCHOOL ENTITIES
SUBARTICLE A
PRELIMINARY PROVISIONS

Section 1701-C. Scope of article.

This article relates to charter school entities.

Section 1702-C. Legislative intent.

It is the intent of the General Assembly to provide pupils and community members the ability to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish all of the following:

(1) Improve pupil learning.

(2) Increase learning opportunities for all pupils.

(3) Encourage the use of different and innovative teaching methods.

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(6) Hold the schools established under this article accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

Section 1703-C. Definitions.

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

"Administrator." The term includes those employees of a charter school entity, including the chief administrator of a charter school entity and all other employees, who by virtue of their positions are responsible for taking or recommending official action of a nonministerial nature with regard to contracting or procurement, administering or monitoring grants or subsidies, managing or regulating staff, student and school activities or any activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

"Appeal board." The State Charter School Appeal Board.

"At-risk student." A student at risk of educational failure because of limited English proficiency, poverty, community factors, truancy,

academic difficulties or economic disadvantage.

"Authorizer." The commission or a local board of school directors.

"Charter school." An independent public school established and operated under a charter from an authorizer and in which students are enrolled or attend.

"Charter school entity." A charter school, regional charter school or cyber charter school.

"Charter school foundation." A nonprofit organization, as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that provides funding, resources or otherwise serves to support a charter school entity, either directly or through an affiliated entity.

"Chief administrator." An individual appointed by the board of trustees to oversee and manage the operation of the charter school entity. The term shall not include a professional staff member.

"Commission." The State Commission on Charter Schools.

"Committee." The Charter School Funding Advisory Committee.

"Cyber charter school." An independent public school established and operated under a charter from the commission and which uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means.

"Department." The Department of Education of the Commonwealth.

"Educational management service provider." A for-profit education management organization, nonprofit charter or education management organization, school design provider, business manager or any other partner entity with which a board of trustees of a charter school entity contracts to provide educational design, business services, comprehensive management, personnel functions or implementation of the charter.

"Fund." The State Charter School Assessment Fund.

"Governing board." The council of trustees of an institution of higher education.

"Immediate family member." A parent, spouse, child, brother or sister.

"Institution of higher education." An institution as defined in section 2001-A(10).

"Local board of school directors." The board of directors of a school district in which a proposed or an approved charter school is located. The term shall include a special board of control or a School Reform Commission.

"Local taxing authority." A county, city, borough, incorporated town, township or school district.

"Nonrelated." An individual who is not an immediate family member.

"Regional charter school." An independent public school that is a charter school established and operated under a charter from more than one authorizer and in which students are enrolled or attend.

"Right-to-Know Law." The act of February 14, 2008 (P.L. 6, No.3), known as the Right-to-Know Law.

"School district of residence." The school district in this Commonwealth in which a child resides as determined under section 1302.

"School entity." A school district, intermediate unit, joint school or area vocational-technical school.

"School Reform Commission." The School Reform Commission established under section 696.

"Secretary." The Secretary of Education of the Commonwealth.

"Special board of control." A special board of control established under section 692.

"State board." The State Board of Education of the Commonwealth.

"Unused facility." Any building owned by a school district or the Commonwealth that is not used by the school district or the Commonwealth for its own programs or that is leased to a third party for consideration.

Section 1704-C. State Commission on Charter Schools.

(a) Establishment.—The State Commission on Charter Schools is established as an independent administrative commission.

(b) Composition.—

(1) The commission shall consist of citizens of this Commonwealth who possess strong experience and expertise in one of the following areas:

(i) Public nonprofit governance.

(ii) Business and administration.

(iii) Social services.

(iv) Management.

(v) Finance.

(vi) Public school leadership.

(vii) Assessment.

(viii) Curriculum and instruction.

(ix) Public education law.

(2) All members of the commission shall have a demonstrated understanding of and commitment to charter schooling as a strategy for strengthening public education.

(3) No current State public official or appointee shall be appointed to serve as a member of the commission.

(4) Members of the commission shall be appointed as follows:

(i) Three individuals who shall be appointed by the Governor.

(ii) Four individuals who shall be appointed by the General Assembly as follows:

(A) The President pro tempore of the Senate shall appoint one individual.

(B) The Minority Leader of the Senate shall appoint one individual.

(C) The Speaker of the House of Representatives shall appoint one individual.

(D) The Minority Leader of the House of Representatives shall appoint one individual.

(c) Terms.—

(1) The members initially appointed by the Governor shall serve for terms of two, three and four years, respectively, the particular term of each to be designated by the Governor at the time of appointment.

(2) (i) Except as provided under subparagraph (ii), the members initially appointed by the General Assembly under subsection (b)(4)(ii) shall serve for terms of four years and the terms of those members' successors shall be four years each.

(ii) Any person appointed to fill a vacancy for a member appointed under subsection (b)(4)(ii) shall serve only for the unexpired term or until a successor is appointed and qualified.

(3) An appointed member of the commission shall be eligible for reappointment.

(4) The Governor shall select one of the members to serve as chairperson of the commission.

(d) Meetings.—The commission shall meet at least monthly to fulfill the purposes provided under this section. A majority of the members of the commission shall constitute a quorum and a majority of the members of the commission shall have authority to act upon any matter properly before the commission. The commission is authorized to establish rules for its operation.

(e) Compensation.—The members shall receive no payment for their services. Members who are not employees of State government shall be reimbursed from the fund for expenses incurred in the course of their official duties.

(f) Executive director.—An executive director shall be appointed by the members of the commission. The executive director shall be paid compensation as the commission may determine. The executive director may employ personnel and contract for consulting services as may be necessary and is authorized to carry out the purposes of this

article if the services are procured through a competitive bidding process.

(g) Open meetings and documents.—Meetings of the commission shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings) and all hearings shall be conducted in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). Documents of the commission shall be subject to the Right-to-Know Law.

(h) Powers and duties.—The commission shall have the following powers and duties:

(1) Implement the provisions of this article and promulgate regulations.

(2) Serve as an authorizer for charter school entities.

(3) Develop and issue standardized forms that shall be used by all applicants, authorizers and charter school entities as required under sections 1718-C, 1721-C, 1726-C, 1731-C and 1735-C. The commission shall receive input from the department, authorizers and charter school entity operators to develop the standardized forms.

(4) Receive, review and act on applications for the creation of a charter school entity, obtain input from interested persons or entities and hold hearings regarding applications.

(5) Monitor and evaluate the operation of each charter school entity the commission has authorized on an annual basis in order to determine whether the school is in compliance with the terms of its charter and applicable statutes and regulations.

(6) Renew, revoke or deny renewal of a charter school entity's charter that the commission has chartered under section 1723-C.

(7) Provide a list of approved qualified independent certified public accountants to conduct independent audits as required under section 1731-C.

(8) Receive, review and act on charter school transfers under section 1734-C(c).

(9) Accept applications under section 1718-C.

(10) Receive, review and act on multiple charter school organization requests under section 1735-C.

(11) (i) Develop a standard performance matrix for use by the commission and authorizers to evaluate charter school entity performance. The performance matrix shall assess performance by utilizing objective criteria, including:

(A) Student performance on the Pennsylvania System of School Assessment test, the Keystone Exam or another test established by the State board to meet the requirements of section 2603-B(d)(10)(i) and required under the No Child Left Behind Act of 2001.

(B) Annual growth as measured by the Pennsylvania Value-Added Assessment System.

(C) Attendance.

(D) Attrition rates.

(E) Graduation rates.

(F) Except for clauses (A) and (B), other assessment instruments or measures of student achievement.

(G) School safety.

(H) Parent satisfaction.

(I) Other measures of school quality.

(ii) The commission shall develop the matrix under subparagraph (i) within one year of the effective date of this section with input from the department and charter school entity operators. The commission may contract for consulting services with an entity that has experience in developing these matrices if the services are procured through a competitive bidding process.

(iii) Authorizers may not develop a separate matrix for the evaluation of charter school entities.

(iv) The standard performance matrix shall be distributed by the commission to all known authorizers and shall be published on the commission's publicly accessible Internet website.

(v) Beginning July 1, 2013, authorizers shall utilize the standard performance matrix as a primary factor in evaluating new and renewal charter school entity applicants.

(12) Provide a list of nationally recognized accreditation agencies, including the Middle States Association of Colleges and Schools or other regional institutional accrediting agencies recognized by the United States Department of Education or an equivalent federally recognized body for charter school or cyber charter school education, that a charter school entity may use to seek accreditation.

(13) Develop policies, procedures and regulations pertaining to cyber charter school student truancy.

(14) The commission may employ personnel and contract for consulting services as may be necessary and is authorized to carry out the purposes of this article if the services are procured through a competitive bidding process.

Section 1705-C. Commission funding.

(a) Grants.—The commission shall annually seek Federal and nonprofit grants to support its operations.

(b) Limited use of certain funds.—For the 2011-2012 fiscal year, the commission and department may utilize undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to the extent necessary to carry out the provisions of this article and based upon a budget submitted and approved by the Governor's Budget Office. Funds identified by the department and approved by the Governor's Budget Office shall be transferred to the account.

Section 1706-C. Charter School Funding Advisory Committee.

(a) Convention.—

(1) The department shall, after the effective date of this section, convene a Statewide advisory committee to examine the financing of charter school entities in the public education system. The committee shall examine how charter school entity finances affect opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish the requirements of section 1702-C. The department shall provide administrative support, meeting space and any other assistance required by the committee to carry out its duties under this section.

(2) The committee shall consist of the following members:

(i) The chairman and minority chairman of the Education Committee of the Senate and the chairman and the minority chairman of the Education Committee of the House of Representatives, or their designees.

(ii) The secretary or a designee.

(iii) The chairman of the State board or a designee.

(iv) The following members, who shall be appointed by the secretary:

(A) One member who shall represent charter schools.

(B) One member who shall represent regional charter schools.

(C) One member who shall represent cyber charter schools.

(D) One member who shall represent teachers. The member may be a public school teacher, a charter school teacher, a regional charter school teacher, a cyber charter school teacher or a nonpublic school teacher.

(E) One member who shall represent

school administrators.

(F) One member who shall represent school board members.

(G) One member who shall represent a business manager of a school district.

(H) One member who shall represent a parent of a child attending a charter school entity.

(I) One member who shall represent an institution of higher education.

(3) Members of the committee shall be appointed within 45 days of the effective date of this section. Any vacancy on the committee shall be filled by the original appointing officer or agency. The committee shall select a chairman and vice chairman from among its membership at an organizational meeting. The organizational meeting shall take place no later than 90 days following the effective date of this section.

(4) The committee shall hold meetings at the call of the chairman. The committee may hold public hearings on the matters to be considered by the committee at locations throughout this Commonwealth. All meetings and public hearings of the committee shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings). Nine members of the committee shall constitute a quorum at any meeting. Each member of the committee may designate another person to represent that member at meetings of the committee.

(5) Committee members shall receive no compensation for their services but shall be reimbursed for all necessary travel and other reasonable expenses incurred in connection with the performance of their duties as members. If possible, the committee shall utilize the services and expertise of existing personnel and staff of State government.

(6) The committee shall have the following powers and duties:

(i) Meet with current charter school entity operators within this Commonwealth, including cyber charter schools with blended programs.

(ii) Review charter school entity financing laws in operation throughout the United States.

(iii) Evaluate and make recommendations on the following:

(A) Powers and duties extended to charter school entities as they relate to financing.

(B) Funding formulas for charter school entities, including reimbursement procedures and funding under Title I of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et seq.).

(C) The process by which charter school entities are funded under section 1728-C.

(D) Student residency as it relates to funding.

(E) Special education and other special program funding.

(F) Charter school entity transportation.

(G) Charter school entity eligibility to receive grants and funding.

(H) Appropriate assessment fees on charter school entities.

(I) Consideration of recognizing a charter school entity for additional designations as a local education agency.

(iv) The committee shall, no later than November 30, 2012, issue a report of its findings and recommendations to the Governor, the President pro tempore of the Senate, the Minority Leader of the Senate, the chairman and minority chairman of the Education Committee of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of

Representatives and the chairman and minority chairman of the Education Committee of the House of Representatives.

(b) (Reserved).

SUBARTICLE B

CHARTER SCHOOL ENTITIES

Section 1714-C. Powers.

(a) Body corporate.—A charter school entity established under this article is a body corporate and shall have all powers necessary or desirable for carrying out its charter, including the power to:

(1) Adopt a name and corporate seal, except that any name selected shall include the words "charter school," "regional charter school" or "cyber charter school."

(2) Sue and be sued, but only to the same extent and upon the same condition that political subdivisions and local agencies can be sued.

(3) Acquire real property from public or private sources by purchase, lease, lease with an option to purchase or gift for use as a charter school entity facility.

(4) Receive and disburse funds for charter school entity purposes only.

(5) Make contracts and leases for the procurement of services, including services to fulfill the duties of the administrators and chief administrator for the charter school entity, equipment and supplies.

(6) Incur temporary debts in anticipation of the receipt of funds.

(7) Incur debt for the construction of school facilities.

(8) Solicit and accept any gifts or grants for charter school entity purposes.

(9) Enter into a concurrent enrollment agreement under Article XVI-B with an institution of higher education.

(10) Seek accreditation by an accreditation agency recognized by the Commission pursuant to Section 1704-C(h)(13).

(b) Necessary powers.—A charter school entity shall have other powers as are necessary to fulfill its charter and which are not inconsistent with this article.

(c) Liability for indebtedness.—Any indebtedness incurred by a charter school entity in the exercise of the powers specified under this section shall not impose any liability or legal obligation upon a school entity or upon the Commonwealth.

Section 1715-C. Requirements.

(a) Compliance.—Charter school entities shall be required to comply with the following:

(1) Except as provided under this article, a charter school entity shall be exempt from statutory requirements established under this act, from regulations of the State board and from standards of the secretary not specifically applicable to charter school entities. Charter school entities shall not be exempt from statutes applicable to public schools other than under this article.

(2) A charter school entity shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter. Strategies for meaningful parent and community involvement shall be developed and implemented by each school.

(3) A charter school entity may not unlawfully discriminate in admissions, hiring or operation.

(4) A charter school entity shall be nonsectarian in all operations.

(5) A charter school entity may not provide any religious instruction or display religious objects and symbols on the premises of the school with the intention of advancing or endorsing religion. It shall not be a violation of this paragraph for a charter school entity to utilize a sectarian facility:

(i) if the religious objects and symbols within the portions of the facility utilized by the school are

covered or removed to the extent reasonably feasible; and

(ii) the charter school entity provides for discrete and separate entrances to buildings utilized for school purposes only.

(6) A charter school entity may not advocate unlawful behavior.

(7) Subject to section 220, a charter school entity shall participate in the Pennsylvania State Assessment System as provided for in 22 Pa. Code Ch. 4 (relating to academic standards and assessment). A charter school entity shall be treated in the same manner as a school district for the purposes of measuring the charter school entity's adequate yearly progress under the No Child Left Behind Act of 2001.

(8) A charter school entity shall provide a minimum of 180 days of instruction or 900 hours per year of instruction at the elementary level or 990 hours per year of instruction at the secondary level. Attendance at a cyber charter school shall satisfy requirements for compulsory attendance. Nothing in this section shall preclude the use of computer and satellite linkages for delivering instruction to students.

(b) (Reserved).

Section 1716-C. Board of trustees.

(a) Public officials.—

(1) All members of the board of trustees of a charter school entity shall be public officials for the purposes of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and shall file a statement of financial interests for the preceding calendar year with the State Ethics Commission and the authorizer no later than May 1 of each year that members hold the position and of the year after a member leaves the position.

(2) All members of the board of trustees of a charter school entity shall take the oath of office as required under section 321 before entering upon the duties of their office.

(b) Powers.—The board of trustees of a charter school entity shall have the authority to decide matters related to the operation of the school, including budgeting, curriculum and operating procedures, subject to the school's charter. The board shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees, subject to the school's charter and this article.

(c) Restrictions.—The following shall apply to all members of the board of trustees of a charter school entity:

(1) No member of the local board of school directors of a school entity shall serve on the board of trustees of a charter school entity that is located in the member's district.

(2) For all charter school entities chartered after the effective date of this section, an individual shall be prohibited from serving as a voting member of the board of trustees of a charter school entity if the individual or an immediate family member receives compensation from or is employed by or is a board member of an authorizer who participates in the initial review, approval, oversight, evaluation or renewal process of a charter school entity chartered by that authorizer with the exception of all current board members. An employee of the authorizer that chartered the charter school entity may serve as a member of the board of trustees without voting privileges.

(3) No member of the board of trustees of a charter school entity shall participate in the selection, award or administration of any contract if the member has a conflict of interest as defined in 65 Pa.C.S. § 1102 (relating to definitions). Any member of the board of trustees who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and follow the procedures required under 65 Pa.C.S. § 1103(j) (relating to restricted activities). A member of the board of trustees who knowingly violates this section commits a violation

of 65 Pa.C.S. § 1103(a) and shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission. Any contract made in violation of this paragraph shall be voidable by a court of competent jurisdiction if the suit is commenced within 90 days of the making of the contract.

(4) A member of the board of trustees of a charter school entity shall be automatically disqualified and immediately removed from the board upon conviction for an offense graded as a felony, an infamous crime, an offense pertaining to fraud, theft or mismanagement of public funds, any offense pertaining to his official capacity as a board member or any crime involving moral turpitude.

(d) Structure.—

(1) The board of trustees of a charter school entity shall have a minimum of five nonrelated voting members. If a charter school entity has fewer than five nonrelated voting members serving on its board on the effective date of this section, the charter school entity shall, within 60 days of the effective date of this section, appoint additional members to the board to meet the minimum requirements of this section.

(2) Within one year of the effective date of this section, at least one member of the board of trustees of a charter school entity shall be a parent of a child currently attending that charter school entity. The board member shall be eligible to serve only so long as the child is attending the charter school entity.

(e) Organization of meetings of boards of trustees.—

(1) A majority of the voting members of the board of trustees shall be a quorum. If less than a majority is present at any meeting, no business shall be transacted at the meeting.

(2) The affirmative vote of a majority of all the voting members of the board of trustees, duly recorded, shall be required in order to take action on the subjects enumerated under subsection (b).

(3) All meetings shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(f) Refusal or neglect of duty.—

(1) If a member of the board of trustees refuses or neglects to perform any duty imposed upon it under this article, 25 individuals who are parents or guardians of students of the charter school entity may present a petition in writing of the refusal or neglect, verified by oath or affirmation, to the court of common pleas in the county in which the charter school or regional charter school building is located or, in the case of a cyber charter school, to Commonwealth Court. The petition shall set forth the facts regarding the board member.

(2) (i) The court shall grant a rule upon the member of the board of trustees, returnable in not less than ten days nor more than 20 days from the date of issue, to show cause why the member should not be removed from the board. The member shall have at least five days' notice of the granting of the rule.

(ii) On or before the return day of the rule, the member or members, individually or jointly, shall file in writing their answer or answers to the petition, under oath.

(iii) If the facts set forth in the petition or any material part of the petition, are denied, the court shall conduct a hearing on the petition.

(iv) If, after the hearing under subparagraph (iii) or if no answer is timely filed denying the facts set forth in the petition, the court finds that any duty imposed on the members required under this article has not been done or has been neglected by them, the court shall have power to remove the member or members and shall direct the authorizer to appoint other qualified persons to serve for the duration of the removed members' unexpired terms, subject to this article.

(v) The court shall impose the cost of the

proceedings upon the petitioners, the members of the board of trustees, the authorizer or may apportion the cost among them.

(vi) Any person removed as a member of the board of trustees of a charter school entity under this subsection shall not be eligible again as a board member for a period of five years from the removal.

Section 1717-C. Administrators.

(a) Public employee.—A person who serves as an administrator for a charter school entity shall be a public employee for the purposes of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and shall file a statement of financial interests for the preceding calendar year with the authorizer and the board of trustees no later than May 1 of each year that he holds the position and of the year after he leaves the position.

(b) Duties of chief administrator.—The chief administrator shall exercise the duties designated by the board of trustees, including the following:

(1) In accordance with established board policy and bylaws, upon action by the board of trustees to approve any bill or account for payment of money and to prepare and sign an order for the payment of money.

(2) To comply with all reporting requirements of this article.

(3) Notwithstanding any other provision of this article and other law, to serve as custodian of all records, commissions and property of the charter school entity.

(4) To perform other duties pertaining to the business of the charter school entity as required under this article.

(c) Restrictions.—

(1) A person who serves as an administrator for a charter school entity shall not receive compensation from another charter school entity or from an educational management service provider except if the following apply:

(i) The administrator has submitted a sworn statement to each charter school entity board of trustees. The sworn statement shall detail the work for the other entity and include the projected number of hours, rate of compensation and projected duration.

(ii) The board of trustees has reviewed a statement under subparagraph (i) and has agreed to grant permission to the administrator by resolution.

(2) A copy of the sworn statement under paragraph (1)(i) and the resolution by the board of trustees approving the request shall be kept on file with the charter school entity and the authorizer.

(3) No administrator of a charter school entity or immediate family member shall be permitted to serve as a voting member of the board of trustees of their charter school entity.

(4) No administrator of a charter school entity shall participate in the selection, award or administration of a contract if he has a conflict of interest as that term is defined in 65 Pa.C.S. § 1102 (relating to definitions). An administrator who knowingly violates this subsection commits a violation of 65 Pa.C.S. § 1103(a) (relating to restricted activities) and shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission. Any contract made in violation of this subsection shall be voidable by the board of trustees of the charter school entity.

(5) An administrator shall be immediately dismissed upon conviction for an offense graded as a felony, an infamous crime, an offense pertaining to fraud, theft or mismanagement of public funds or any crime involving moral turpitude.

Section 1718-C. Establishment.

(a) Entities who may establish.—

(1) A charter school entity may be established by any of the following:

(i) An individual.

(ii) One or more teachers who will teach at the proposed school.

(iii) Parents or guardians of students who will enroll at the school.

(iv) A nonsectarian college, university or museum located in this Commonwealth.

(v) A nonsectarian corporation not-for-profit, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations).

(vi) A corporation, association or partnership.

(vii) A combination of any of the entities listed under this subsection.

(2) No charter school entity shall be established or funded by and no charter shall be granted to any sectarian school, institution or other entity. No funds allocated or disbursed under this article shall be used to directly support instruction under section 1327.1.

(3) A charter school must be organized as a public, nonprofit corporation. A charter may not be granted to any for-profit entity.

(b) Establishment by conversion.—

(1) A charter school may be established by converting an existing public school building or a portion of an existing public school building. The conversion of an existing public school building or portion of an existing public school building to a charter school may be initiated by the school district where the existing public school is located or by the parent petition process under paragraph (3). There shall be no limit on the number of public schools in a school district that can be converted to a charter school.

(2) The local board of school directors, the special board of control or the School Reform Commission that desires to convert an existing public school building or a portion of an existing public school building to a charter school may designate and approve the existing public school building or portion of an existing public school building that it seeks to convert to a charter school by accepting applications in accordance with paragraph (4).

(3) (i) For the purposes of improving academic achievement or student safety, the parents or legal guardians of at least 51% of students attending an existing public school building may petition the local board of school directors, the special board of control or the School Reform Commission to convert the existing public school building or a portion of the existing public school building to a charter school.

(ii) The commission shall develop and issue a standard petition form that shall be used by all parents or legal guardians seeking conversion.

(iii) Upon certified receipt of the petition and verification of the signatures, the local board of school directors, the special board of control established under section 692 or the School Reform Commission shall convert the existing public school building or a portion of an existing public school building to a charter school building by accepting applications in accordance with paragraph (4). Notwithstanding any other provision of law, the local board of school directors shall not be required to negotiate or agree to any provision that prevents, impedes or prohibits a school district's ability to convert to a charter school under this article after the effective date of this section. A term in a collective bargaining agreement in place on the effective date of this section that operates to prevent, impede or prohibit a school district from converting to a charter school under this article shall not continue past the expiration date of the collective bargaining agreement.

(4) (i) Applications for the charter school shall be

solicited through a competitive request for proposal process initiated by the local board of school directors, the special board of control or the School Reform Commission. The content and dissemination of the request for proposal must be consistent with the purpose and the requirements of this article. The local board of school directors, the special board of control or the School Reform Commission may accept applications by any individual or entity authorized to establish a charter school under subsection (a) to operate the converted charter school.

(ii) The local board of directors, the special board of control or the School Reform Commission shall evaluate each submitted proposal in a public manner. Once selected, the local board of school directors, the special board or the School Reform Commission shall do all of the following:

(A) Explain how and why the proposal was selected.

(B) Provide evidence, if available, of the provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions if applicable.

(5) The authorizer may not serve as the board of trustees of an existing school which is converted to a charter school under this subsection.

(6) This article shall apply to an existing public school building or a portion of an existing public school building converted to a charter school.

(7) In the case of an existing school being converted to a charter school, the local board of school directors, the special board of control or the School Reform Commission shall establish the alternative arrangements for current students who choose not to attend the charter school.

(c) Establishment of a cyber charter school by a local board of school directors or intermediate unit.—A cyber charter school may be established by a local board of school directors or an intermediate unit if they follow the procedures and requirements of this article. Nothing under this article shall preclude a school district or an intermediate unit from offering instruction via the Internet or other electronic means, except that the instruction shall not be recognized as a cyber charter school under this article. A cyber charter school must be organized as a public, nonprofit corporation. A charter may not be granted to any for-profit entity.

(d) Authorizers.—

(1) The following entities shall be authorizers of charter schools and regional charter schools:

(i) The commission.

(ii) A local board of school directors.

(2) The commission shall be the authorizer of cyber charter schools.

(e) Authorizer powers and duties.—

(1) The commission shall have the following powers and duties:

(i) Receive, review and act on applications for the creation of a charter school entity, obtain input from interested persons or entities and hold hearings regarding applications.

(ii) Execute charter contracts with an approved charter school entity applicant.

(iii) Monitor and evaluate the operation of each charter school entity authorized by the commission on an annual basis in order to determine whether the charter school entity is in compliance with the terms of its charter and all applicable laws and regulations.

(iv) Renew, revoke or deny renewal of a charter

school entity's charter under section 1723-C.

(2) The local board of school directors shall have the following powers and duties:

(i) Receive, review and act on applications for the creation of a charter school or regional charter school, obtain input from interested persons or entities and hold hearings regarding applications.

(ii) Execute charter contracts with an approved charter school or regional charter school applicant.

(iii) Monitor and evaluate the operation of each charter school or regional charter school on an annual basis in order to determine whether the charter school or regional charter school is in compliance with the terms of its charter and all applicable laws and regulations.

(iv) Renew, revoke or deny renewal of a charter school or regional charter school's charter under section 1723-C.

(v) Assess and receive administrative fees as allowed under section 1705-C.

(f) Special conditions.—Authorizers may not exercise the power and duties of the department as set forth under Federal or State laws or regulations.

(g) Initial application procedure.—

(1) An application to establish a charter school entity shall be submitted to a authorizer under subsection (d) by October 1 of the school year preceding the school year in which the charter school entity proposes to commence operation.

(2) (i) Within 45 days of receipt of an application, the authorizer shall hold at least one public hearing on the charter application under section 1720-C and 65 Pa.C.S. Ch. 7 (relating to open meetings). The authorizer shall give the applicant at least 48 hours written or electronic notice of the public hearing.

(ii) A school district directly impacted by the potential charter school entity may provide testimony at the public hearing, except that testimony with regard to the economic impact of an applicant on a school district may not be the sole basis for denial of the application.

(iii) At least 45 days must transpire between the first public hearing and the final decision of the authorizer on the charter application, during which time public comment shall be received and made part of the record. Nothing in this article shall prohibit a school district or any other interested party from providing public comment.

(3) An application submitted under this article shall be evaluated by the authorizer based on established criteria, including the following:

(i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held under subsection (g)(2).

(ii) The capability of the applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.

(4) Not later than 75 days after the first public hearing on the application, the authorizer that received the application shall grant or deny the application.

(5) An application shall be deemed approved by the authorizer upon affirmative vote by a majority of all members of the authorizer. Formal action approving or denying the application shall be taken at a public meeting, with notice or consideration of the application given by the authorizer under 65 Pa.C.S. Ch. 7. The authorizer shall give the applicant at least 48 hours written or electronic notice of the meeting at which the authorizer will be considering the application.

(6) Written notice of the action of the authorizer shall be

sent to the applicant, the department and the commission. If the application is denied, the reasons for the denial, including a description of deficiencies in the application, shall be clearly stated in the notice to the applicant. The written notice shall be issued by the authorizer within 30 days of the denial of the application.

(7) At the option of the applicant, a denied application may be revised and resubmitted to the authorizer that denied the application. If an application is revised and resubmitted to the authorizer that denied the application, the authorizer shall follow the procedures listed under paragraphs (2), (3), (4), (5) and (6).

(8) The decision of the authorizer to deny a resubmitted application after following the procedures under paragraph (7) may be appealed to the appeal board as provided under section 1724-C. Failure by the authorizer to hold a public hearing and to grant or deny the application for a charter school within the time periods specified under paragraphs (2), (4), (5) and (6) shall permit the applicant for a charter to file its application with the appeal board as provided for under section 1724-C.

Section 1719-C. Regional charter school.

(a) Establishment.—

(1) A regional charter school may be established by any individual or entity allowed under section 1718-C (a).

(2) A regional charter school may be established by creating a new school or by converting an existing public school building or a portion of an existing public school building. Conversion of an existing public school building or a portion of an existing public school building to a regional charter school shall be accomplished in accordance with section 1718-C(b).

(3) No regional charter school may be established or funded by and no charter shall be granted to any sectarian school, institution or other entity.

(4) A regional charter school must be organized as a public, nonprofit corporation. A charter may not be granted to any for-profit entity.

(b) Application.—The boards of school directors of one or more school districts or the governing board of any combination of one or more authorizers, may act jointly to receive and consider an application for a regional charter school. Any action to approve an application for a charter or to sign a written charter of an applicant shall require an affirmative vote of a majority of all the directors of each of the school districts or a majority of the members of the governing board of each of the initial approving authorities involved.

(c) Special conditions.—The provisions of this article relating to charter schools and the powers and duties of authorizers and the commission shall apply to regional charter schools, except as provided under this article.

Section 1720-C. Hearings.

All hearings held by authorizers under this article shall be conducted as follows:

(1) If the hearing is conducted by a local board of school directors, the hearing shall be conducted in accordance with 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies).

(2) If the hearing is conducted by the commission, the hearing shall be conducted in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

Section 1721-C. Application.

(a) Contents and form.—The commission shall develop and issue a standard application form that shall be used by all applicants to establish a charter school entity. The application to establish a charter school entity shall include all of the following information:

(1) The identification of the charter applicant.

(2) The name of the proposed charter school entity.

(3) The grade or age levels served by the school.

(4) An organizational chart clearly presenting the proposed governance structure of the school, including lines of

authority and reporting between the board of trustees, administrators, staff and any educational management service provider that will play a role in providing management services to the charter school entity.

(5) A clear description of the roles and responsibilities for the board of trustees, administrators and any other entities, including a charter school foundation, shown in the organizational chart.

(6) A clear description and method for the appointment or election of members of the board of trustees.

(7) Standards for board performance, including compliance with all applicable laws, regulations and terms of the charter.

(8) If the charter school entity intends to contract with an educational management service provider for services, all of the following:

(i) Evidence of the education management service provider's record in serving student populations, including demonstrated academic achievement and demonstrated management of nonacademic school functions, including proficiency with public school-based accounting, if applicable.

(ii) A term sheet setting forth all of the following:

(A) The officers, chief administrator and administrators of the education management service provider.

(B) The proposed duration of the service contract.

(C) Roles and responsibilities of the governing board, the school staff and the educational management service provider.

(D) The scope of services, personnel and resources to be provided by the educational management service provider.

(E) Performance evaluation measures and time lines.

(F) The compensation structure, including clear identification of all fees to be paid to the educational management service provider.

(G) Methods of contract oversight and enforcement.

(H) Investment disclosure or the advance of moneys by the educational management service provider on behalf of the charter school entity.

(I) Conditions for renewal and termination of the contract.

(iii) Disclosure and explanation of any existing or potential conflicts of interest between the members of the board of trustees and the proposed educational management service provider or any affiliated business entities, including a charter school foundation qualified as a support organization under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(9) The mission and educational goals of the charter school entity, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.

(10) The admission policy and criteria for evaluating the admission of students, which shall comply with section 1726-C.

(11) Procedures which will be used regarding the suspension or expulsion of pupils, which shall comply with section 1318.

(12) Information on the manner in which community groups will be involved in the charter school planning process.

(13) The financial plan for the charter school entity and the provisions which will be made for auditing the school under

section 437, including the role of any charter school foundation.

(14) Procedures which shall be established to review complaints of parents regarding the operation of the charter school entity.

(15) A description and address of the physical facility, if already determined, in which the charter school entity will be located, the ownership of the physical facility and any lease arrangements.

(16) Information on the proposed school calendar for the charter school entity including the length of the school day and school year, consistent with section 1502.

(17) The proposed faculty, if already determined and a professional development and continuing education plan for the faculty and professional staff of a charter school entity.

(18) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school entity students in extracurricular activities within the school district. Notwithstanding any other provision of law, no school district of residence shall prohibit a student of a charter school entity from participating in any extracurricular activity of that school district of residence if the student is able to fulfill all of the requirements of participation in the activity and the charter school entity does not provide the same extracurricular activity.

(19) A report of criminal history record under section 111 for all board members, employees and volunteers identified in the application who shall have direct contact with students and a plan for satisfying the proper criminal history record clearances required for all other staff.

(20) An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required under 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all board members, employees and volunteers identified in the application who shall have direct contact with students and a plan for satisfying the proper official clearance statement regarding child injury or abuse required for all other staff.

(21) How the charter school entity will provide adequate liability and other appropriate insurance for the charter school, its employees and the board of trustees of the charter school.

(22) Policies regarding truancy, absences and withdrawal of students, including the manner in which the charter school or regional charter school will monitor attendance consistent with section 1715-C(a)(8).

(23) How the charter school will meet the standards included in the performance matrix developed by the commission under section 1704-C(h)(12).

(24) An indication on whether or not the charter school entity will seek accreditation by a body recognized by the commission under section 1704-C(h)(13).

(b) Cyber charter school application.—The commission shall develop a standard application form for cyber charter school applicants. In addition to the requirements of subsection (a), an application to establish a cyber charter school shall also include the following:

(1) An explanation of the amount of online time required for elementary and secondary students.

(2) The manner in which teachers will deliver instruction, assess academic progress and communicate with students to provide assistance.

(3) A specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions.

(4) The technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student.

(5) A description of how the cyber charter school will define and monitor a student's school day, including the delineation of online and offline time.

(6) A description of commercially prepared standardized achievement tests that will be used by the cyber charter school in addition to the Pennsylvania System of School Assessment test, including the grade levels that will be tested and how the data collected from the tests will be used to improve instruction.

(7) The technical support that will be available to students and parents or guardians.

(8) The privacy and security measures to ensure the confidentiality of data gathered online.

(9) The methods to be used to ensure the authenticity of student work and adequate proctoring of examinations.

(10) The provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized educational programs.

(11) Policies regarding truancy, absences and withdrawal of students, including the manner in which the cyber charter school will monitor attendance consistent with commission policies, procedures and regulations established under section 1704-C(h)(14) and as required under section 1715-C(a).

(12) The types and frequency of communication between the cyber charter school and the student and the manner in which the cyber charter school will communicate with parents and guardians.

(13) The addresses and ownership of all facilities and offices of the cyber charter school and any lease arrangements.

(c) Additional terms.—An authorizer may not impose additional terms, develop its own application or require additional information in contradiction of the standard application form required under subsection (a).

(d) Limitation.—

(1) A charter school applicant shall be prohibited from submitting an application for a charter school at a single location to more than one authorizer at one time. Nothing in this section shall prohibit a regional charter school from applying to multiple authorizers as provided for under section 1719-C.

(2) An applicant for a charter school that fails to comply with this section may be subject to a denial of the charter application or revocation of an approved charter.

(3) Nothing under this subsection shall prohibit an applicant for a charter school at a single location from submitting the same or a similar application to another authorizer after the completion of the application process required under section 1718-C, upon formal withdrawal of their application with the authorizer during the application process or the completion of the appeal process under section 1724-C.

Section 1722-C. Charter.

(a) Development.—Upon approval of an application under section 1718-C, a written charter shall be developed which shall contain the provisions of the application required under section 1721-C. The charter shall be signed by the authorizer and the board of trustees of the charter school entity. The written charter, when duly signed by the authorizer and the school's board of trustees, shall act as legal authorization for the establishment and operation of a charter school entity and shall be legally binding on both the board of trustees and on the authorizer. A charter may be granted only for a school organized as a public, nonprofit corporation.

(b) Amendments.—A charter school entity shall have the ability to request amendments to its approved written charter by filing a written document describing the requested amendment to the authorizer. Within 30 days of its receipt of the request for an amendment, the authorizer shall hold a public hearing on the requested amendment under section 1720-C and 65 Pa.C.S. Ch. 7 (relating to open meetings). Within 30 days after the hearing, the authorizer must grant or deny the requested amendment. Failure by the authorizer to hold a public hearing and to grant or deny the amendments within the time period specified shall be deemed an approval. An applicant for an amendment shall have the right to appeal the denial of a requested

amendment to the appeal board provided for under section 1724-C. Section 1723-C. Renewal, nonrenewal and termination.

(a) Terms.—An initial written charter shall be valid for a period of five years and shall be renewed for a period of ten years upon reauthorization by an authorizer.

(b) Renewal process.—A charter school entity seeking renewal shall send an intent to renew letter to the original authorizer no later than October 1 of the final school year of the charter school's current charter, except that an intent to renew letter for a charter that was transferred or consolidated under section 1734-C must be submitted to the commission. The authorizer shall conduct a comprehensive review of the annual reports and assessments required under section 1731-C and, if appropriate, renew the charter for a period of ten years. If an authorizer fails to act upon the expiration of initial or renewed charter, the charter shall be deemed to be renewed for a period of ten years.

(c) Authorizer review.—

(1) During the term of the charter or at the end of the term of the charter, the authorizer may choose to revoke or not to renew the charter based on any of the following:

(i) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed under section 1722-C.

(ii) Failure to meet the requirements for student performance or failure to meet any performance standard set forth in the written charter signed under section 1722-C.

(iii) Failure to meet generally accepted standards of fiscal management or audit requirements.

(iv) Failure to maintain the financial ability to continue as an ongoing concern according to generally accepted accounting principles.

(v) Violation of any of the provisions of this article.

(vi) Violation of any provision of law from which the charter school entity has not been exempted, including Federal laws and regulations governing children with disabilities.

(vii) Failure to satisfactorily meet the performance standards set forth in the performance matrix developed by the commission under section 1704-C(h)(12).

(2) If the health or safety of the school's pupils, staff or both is at serious risk, the authorizer may take immediate action to revoke a charter.

(d) Removal of board member or administrator.—If, after a hearing under this section, an authorizer proves by a preponderance of the evidence that an administrator or board member has violated this article, the terms and conditions of the charter or any other law, the authorizer shall have the authority to require the charter school entity to replace the administrator or board member in order to obtain renewal of the charter. The authorizer may refer its findings to the district attorney with jurisdiction or to the Office of Attorney General for prosecution if the authorizer discovers or receives information about possible violations of law by any person affiliated with or employed by a charter school entity.

(e) Notice of revocation or nonrenewal.—Any notice of revocation or nonrenewal of a charter shall state the grounds for the action with reasonable specificity and give reasonable notice to the board of trustees of the charter school entity of the date on which a public hearing concerning the revocation or nonrenewal will be held. The authorizer shall conduct the hearing under section 1720-C and present evidence in support of the grounds for revocation or nonrenewal stated in its notice and give the charter school entity reasonable opportunity to offer testimony and amendments under section 1722-C(b) before taking final action. Formal action revoking or not renewing a charter shall be taken by the authorizer at a public meeting under section 1720-C and 65 Pa.C.S. Ch. 7 (relating to open meetings) and after the public has had 30 days to provide comments to

the members of the commission or the local board of school directors or the governing board of an institution of higher education.

(f) Dissolution.—

(1) If a charter is revoked, not renewed, forfeited, surrendered or otherwise ceases to operate, the charter school entity shall be dissolved. The charter school entity shall provide its authorizer with a resolution passed by the board of trustees identifying the name, address, e-mail address, fax number and telephone number of the person who has been authorized to proceed with the dissolution of the charter school entity. The authorized person shall be responsible for marshaling the assets of the school, disposing of the school's liabilities and obligations and ensuring that student records are forwarded to each student's school district of residence as required under subsection (g).

(2) After the disposition of any liabilities and obligations of the charter school or regional charter school, the person authorized under paragraph (1) shall distribute any remaining assets of the school, both real and personal, on a proportional basis to the school entities with students enrolled in the charter school or regional charter school for the last full or partial school year of the charter school or regional charter school.

(3) After the disposition of any liabilities and obligations of a cyber charter school, the person authorized under paragraph (1) shall provide any remaining assets of the cyber charter school to the department for distribution to the school districts in which the students enrolled in cyber charter school reside at the time of dissolution.

(4) School entities, authorizers or the Commonwealth shall not be liable for any outstanding liabilities or obligations of the charter school entity.

(g) Student application.—If a charter is revoked or is not renewed, a student who attended the charter school entity shall be eligible to enroll in another public school in the student's school district of residence. Normal application deadlines shall not apply to the enrollment. All student records maintained by the charter school entity shall be forwarded to the student's school district of residence. Section 1724-C. Appeal process.

(a) Establishment.—The State Charter School Appeal Board is established and shall consist of the Secretary of Education and the following members who shall be appointed by the Governor by and with the consent of a majority of all the members of the Senate:

(1) A parent of a school-aged child enrolled at a charter school entity.

(2) A school board member.

(3) A certified teacher actively employed in a public school.

(4) A faculty member or administrative employee of an institution of higher education.

(5) A member of the business community.

(6) A member of the State board.

(7) An administrator of a charter school entity.

(8) A member of the board of trustees of a charter school entity.

(b) Chairman.—The Governor shall select the chairman of the appeal board, who shall serve at the pleasure of the Governor.

(c) Terms.—The term of office of members of the appeal board, other than the secretary and the parent member appointed under subsection (a)(1), shall be for a period of four years or until a successor is appointed and qualified, except that, of the initial appointees, the Governor shall designate two members to serve terms of two years, two members to serve terms of three years and two members to serve terms of four years. A parent member appointed under subsection (a)(1) shall serve a term of four years as long as the member's child remains enrolled in the charter school entity. Any appointment to fill a vacancy shall be for the period of the unexpired term or until a successor is appointed and qualified.

(d) Operation.—The appeal board shall meet as needed to fulfill the purposes provided under this section. A majority of the members of

the appeal board shall constitute a quorum, and a majority of the members of the appeal board shall have authority to act upon any matter properly before the appeal board. Meetings of the appeal board shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings). Documents of the appeal board shall be subject to the Right-to-Know Law. The appeal board is authorized to establish rules for its operation.

(e) Compensation.—The members shall receive no payment for their services. Members who are not employees of State government shall be reimbursed for expenses incurred in the course of their official duties from funds appropriated for the general government operations of the department.

(f) Assistance.—The department shall provide assistance and staffing for the appeal board. The Office of General Counsel shall provide legal advice and assistance as the appeal board may require.

(g) Review by appeal board.—The following shall apply:

(1) The appeal board shall have the exclusive review of an appeal by a charter school entity applicant or by the board of trustees of an existing charter school entity of a decision made by an authorizer to:

(i) Deny a charter under section 1718-C.

(ii) Deny amendments to a charter under section 1722-C.

(iii) Revoke or refuse to renew a charter under section 1723-C.

(2) In an appeal under this subsection, the decision made by the authorizer shall be reviewed by the appeal board. The appeal board shall accept all appeals within 30 days of receipt of the appeal. The appeal board shall give due consideration to the findings of the authorizer and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision. The appeal board shall have discretion to allow the authorizer and the charter school entity applicant to supplement the record if the supplemental information was previously unavailable.

(3) Not later than 30 days after the date of notice of acceptance of the appeal, the appeal board shall meet to officially review the certified record.

(4) Not later than 60 days after the review conducted under paragraph (2), the appeal board shall issue a written decision affirming or denying the appeal. If the appeal board has affirmed the decision of the authorizer, notice shall be provided to both parties.

(5) In the case of a review by the appeal board of an initial application denied by an authorizer, the decision of the appeal board to reverse the decision of the authorizer shall serve as a requirement for the authorizer to grant the application and sign the written charter of the charter school under section 1722-C. If the authorizer fails to grant the application and sign the charter within ten days of notice of the reversal of the decision of the authorizer, the charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(6) In the case of a review by the appeal board of an amendment to a written charter denied by an authorizer, the decision of the appeal board to reverse the decision of the authorizer shall serve as a requirement for the authorizer to grant the amendment and sign the revised charter of the charter school entity under section 1722-C. If the authorizer fails to grant the amendment and sign the revised charter within ten days of notice of the reversal of the decision of the authorizer, the charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(7) (i) In the case of a review by the appeal board of an application that is revoked or not renewed, the appeal board shall review the record and shall have the discretion to supplement the record if the supplemental information was previously unavailable.

(ii) The appeal board may consider the charter school entity plan, annual reports, student performance

and employee and community support for the charter school entity in addition to the record.

(iii) The appeal board shall give due consideration to the findings of the authorizer and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision.

(iv) If the appeal board determines that the charter should not be revoked or should be renewed, the appeal board shall order the authorizer to rescind its revocation or nonrenewal decision.

(v) If the authorizer fails to rescind its revocation or nonrenewal decision and sign the notice within ten days of notice of the reversal of the decision of the authorizer, the renewed charter shall be deemed to be approved and shall be signed by the chairman of the appeal board.

(8) Decisions of the appeal board shall be subject to appellate review by Commonwealth Court.

(h) Effect of appeal.—The charter shall remain in effect until final disposition by the court.

Section 1725-C. Facilities.

(a) Location.—A charter school entity may be located in an existing public school building, in a part of an existing public school building, in space provided on a privately owned site, in a public building or in any other suitable location.

(b) Report.—The following shall apply:

(1) All school districts must submit an annual report of the unused facilities that are owned by the school district that may be suitable for the operation of a charter school entity to the department no later than July 1 of each year.

(2) The department, in conjunction with the Department of General Services, shall compile a list of unused facilities, including unused facilities owned by the Commonwealth, and publish it on its Internet website by September 1 of each year. The department shall make the list of unused facilities available to existing charter school entities and applicants. The list shall include the address of each building, the name of the owner of the building and short description of the building.

(3) Each school district shall make any unused facility available for lease or for sale to charter school entities operating within that school district. The terms of the use of the facility by the charter school entity shall be subject to negotiation between the school district and the school and shall be memorialized as a separate agreement between all parties. The agreement shall outline which party is responsible for actual costs related to the facility, including maintenance, insurance and other factors. No school district may charge a charter school entity greater than fair market value price for the sale, lease or rental of the existing facility or for property formerly used by the school district.

(4) A charter school entity allowed to use a facility under an agreement under this subsection may not sell or dispose of any interest in the property without written permission of the school district.

(5) A school district shall give a charter school entity using a school district's unused facility at least 180 days' notice before selling, leasing or otherwise disposing of the unused facility to a third party. A school district which elects to sell an unused facility to a charter school entity shall be exempt from section 707(1), (2) and (3).

(c) Exemption from regulations.—Except for public school facility regulations pertaining to health or safety of students, a charter school entity facility shall be exempt from public school facility regulations.

(d) Multiple locations.—Notwithstanding any other provision of this article, an authorizer, in its discretion, may permit a charter school entity to operate at more than one location.

(e) Exemption from taxation.—The following shall apply:

(1) Notwithstanding section 204 of the act of May 22,

1933 (P.L.853, No.155), known as The General County Assessment Law, all school property, real and personal, owned by a charter school entity, an associated nonprofit foundation or owned by a nonprofit corporation or associated nonprofit corporation or nonprofit foundation and leased to a charter school entity or associated nonprofit foundation or associated nonprofit corporation at or below fair market value, that is occupied and used by any charter school entity for public school, recreation or any other purposes provided for under this article shall be made exempt from every type of State, county, city, borough, township or other real estate tax, including payments in lieu of taxes established through agreement with the Commonwealth or any local taxing authority, as well as from all costs or expenses for paving, curbing, sidewalks, sewers or other municipal improvements, except that a charter school entity or owner of property leased to a charter school entity may make a municipal improvement in a street on which its school property abuts or may contribute a sum toward the cost of the improvement.

(2) Any agreement entered into by a charter school entity or associated nonprofit foundation or associated nonprofit corporation with the Commonwealth or a local taxing authority for payments in lieu of taxes prior to December 31, 2009, shall be null and void.

(3) This subsection shall apply retroactively to all charter school entities and associated nonprofit foundations and associated nonprofit corporations that filed an appeal from an assessment, as provided under Article V of The General County Assessment Law prior to the effective date of this subsection and until the time as a final order has been entered after due process of law.

(f) Alcoholic beverages.—The following shall apply:

(1) Alcoholic beverages shall not be available for consumption, purchase or sale in any charter school entity facility.

(2) If the authorizer reasonably believes that alcoholic beverages have been made available for consumption, purchase or sale in any charter school entity facility, the authorizer shall notify the department, which shall order the following forfeitures against the charter school entity:

(i) \$1,000 for the first violation.

(ii) \$5,000 for the second or subsequent violation.

(3) The charter school entity may appeal the order of the secretary under 2 Pa.C.S. Chs. 5 (relating to practice and procedure) and 7 (relating to judicial review).

Section 1726-C. Enrollment and notification.

(a) Enrollment.—The following shall apply:

(1) Enrollment of students in a charter school entity shall not be subject to a cap or otherwise limited by any past or future action of a local board of school directors, a special board of control, a School Reform Commission or any other governing authority of an authorizer.

(2) This subsection shall apply to a charter school entity regardless of whether the charter was approved prior to or is approved subsequent to the effective date of this section.

(3) (i) All resident children in this Commonwealth shall qualify for admission to a charter school entity under paragraph (4).

(ii) If more students apply to the charter school entity than the number of attendance slots available in the school, students shall be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline set by the school, except that the school may give preference in enrollment to a child of a parent who actively participated in development of the school, siblings of students presently enrolled in the school and

siblings of students selected for enrollment during the lottery process. For charter schools and regional charter schools, first preference shall be given to students who reside in the district or districts where the school is located.

(4) (i) A charter school entity shall not discriminate in its admission policies or practices on the basis of any of the following:

(A) Except as provided under subparagraph (ii), intellectual ability.

(B) Athletic ability.

(C) Measures of achievement or aptitude.

(D) Status as a person with a disability.

(E) Proficiency in the English language.

(F) Any other basis that would be illegal if utilized by a school district.

(ii) A charter school entity may limit admission to a particular grade level, a targeted population group composed of at-risk students or one or more areas of concentration such as mathematics, language, science or the arts.

(iii) A charter school entity may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

(5) If there is available classroom space, a charter school or regional charter school may enroll nonresident students on a space-available basis and the student's school district of residence shall permit the student to attend the charter school. Terms and conditions of enrollment shall be outlined in the school's charter.

(6) The commission shall develop and issue a standard enrollment form that shall be used by all charter school entities. A charter school entity may not impose additional terms or require additional information outside the standard enrollment form.

(b) Notification.—The following shall apply:

(1) Within ten days of enrollment of a student to a charter school entity, the school shall notify the student's school district of residence of the enrollment through the use of a notification form developed by the commission. The notification shall include:

(i) The name, home address and mailing address of the student.

(ii) The grade in which the student is being enrolled.

(iii) The date the student will be enrolled.

(iv) The name and address of the charter school entity and the name and telephone number of a contact person able to provide information regarding the school.

(v) The signature of the parent or legal guardian of the student and an authorized representative of the charter school entity.

(2) If a school district which has received notice under paragraph (1) determines that it is not the school district of residence for the student, the following shall apply:

(i) Within ten days of receipt of the notice under paragraph (1), the school district shall notify the charter school entity and the department that the school district is not the school district of residence for the student. Notification of nonresidence shall include the basis for the determination.

(ii) Within seven days of notification under subparagraph (i), the charter school entity shall review the notification of nonresidence, respond to the school district and provide a copy of the response to the department. If the charter school entity agrees that the school district is not the school district of residence for the student, it shall determine the proper school district

of residence for the student.

(iii) Within seven days of receipt of a response under subparagraph (ii), the school district shall notify the charter school entity that it agrees or does not agree with the school's determination.

(iv) A school district that has notified the charter school entity that it does not agree shall appeal to the department for a final determination.

(v) Decisions of the department regarding the school district of residence of a student shall be subject to review by Commonwealth Court.

(vi) The secretary shall continue to make payments to a charter school entity under section 1728-C during the time in which the school district of residence of a student is in dispute.

(vii) If a final determination is made that a student is not a resident of an appealing school district, the charter school entity shall return all funds provided on behalf of that student to the school district of residence within 30 days.

(3) (i) Within ten days of receipt of the notification form under paragraph (1), the school district of residence shall provide the charter school entity with all records relating to the student, including transcripts, test scores and a copy of any individualized educational program for that student.

(ii) If a school district of residence fails to provide the student's record within 30 days after receiving the documentation from the charter school entity, the secretary shall deduct and pay to the charter school entity the estimated amount, as documented by the charter school entity, from all State payments made to the district or, if no payments have been made to the district, from all State payments reasonably expected to be made, after receipt of documentation from the charter school entity.

(iii) The district from which the estimated payment has been deducted under subparagraph (ii) may request a hearing from the department which the secretary shall hold within 30 days of the request. The secretary shall render a decision after the hearing and shall not delegate this duty unless there is a conflict from which the secretary must recuse himself after full disclosure.

(iv) The district shall be liable for reasonable legal fees incurred by a charter school entity in attempting to obtain student records.

(v) Supersedeas may not be granted to the department or the school district and, absent a court order, the department may not hold any payments to a charter school entity in escrow.

(c) Withdrawal.—The charter school entity and parent or guardian of a student enrolled in the school shall provide written notification to the student's school district of residence within ten days after withdrawal of a student from the charter school entity.

Section 1727-C. School staff.

(a) Terms of employment.—

(1) The board of trustees of a charter school entity shall determine the level of compensation and all terms and conditions of employment of the staff except as otherwise provided under this article.

(2) At least 75% of the professional staff members of a charter school entity shall hold appropriate State certification.

(3) Employees of a charter school entity may organize under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act.

(4) The board of trustees of a charter school entity shall be considered an employer for purposes of Article XI-A. Upon

formation of one or more collective bargaining units at the school, the board of trustees shall bargain with the employees based on this article, Article XI-A and the Public Employe Relations Act.

(5) Collective bargaining units at a charter school entity shall be separate from any collective bargaining unit of the school district in which the school is located from any other collective bargaining unit.

(6) A charter school entity organized as a collective bargaining unit shall be considered a school entity as provided for under section 1161-A for the purpose of the secretary's seeking an injunction requiring the charter school entity to meet the minimum requirements for instruction as provided for under this article.

(b) Charter applications.—Each charter application shall list the general qualifications needed to staff any noncertified positions. Professional employees who do not hold appropriate State certification must present evidence that they:

(1) meet the qualifications under sections 1109 and 1209; and

(2) have demonstrated satisfactorily a combination of experience, achievement and qualifications as defined in the charter school application in basic skills, general knowledge, professional knowledge and practice and subject matter knowledge in the subject area which an individual will teach.

(c) Employees.—

(1) All employees of a charter school entity shall be enrolled in the Public School Employees' Retirement System in the same manner as set forth under 24 Pa.C.S. § 8301(a) (relating to mandatory and optional membership) unless at the time of the application for the charter school entity the sponsoring district or the board of trustees of the charter school entity has a retirement program which covers the employees or the employee is currently enrolled in another retirement program.

(2) The Commonwealth shall make contributions on behalf of charter school entity employees enrolled in the Public School Employees' Retirement System. The charter school entity shall be considered a school district and shall make payments by employers to the Public School Employees' Retirement System and payments on account of Social Security as established under 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

(3) The market value/income aid ratio used in calculating payments as prescribed under this subsection shall be the market value/income aid ratio for the school district in which the charter school is located or, in the case of a regional charter school or cyber charter school, shall be a composite market value/income aid ratio for the participating school districts as determined by the department.

(4) Except as otherwise provided, employees of a charter school entity shall make regular member contributions as required for active members under 24 Pa.C.S. Pt. IV.

(5) If the employees of the charter school entity participate in another retirement plan, those employees shall have no concurrent claim on the benefits provided to public school employees under 24 Pa.C.S. Pt. IV.

(6) For purposes of this subsection, a charter school entity shall be deemed to be a "public school" as defined in 24 Pa.C.S. § 8102 (relating to definitions).

(d) Benefits.—

(1) Every employee of a charter school shall be provided similar health care benefits as the employee would be provided if he or she were an employee of the local district.

(2) The local board of school directors may require the charter school to provide similar terms and conditions with regard to health insurance as the collective bargaining agreement of the school district to include employee contributions to the district's health benefits plan.

(3) The charter school shall make any required

employer's contribution to the district's health plan to an insurer, an authorizer or a contractual representative of school employees, whichever is appropriate to provide the required coverage.

(e) Leave of absence.—A public school employee of a school entity may request a leave of absence for up to five years in order to work in a charter school located in the district of employment, in a cyber charter school or in a regional charter school in which the employing school district is a participant. Approval for a leave shall not be unreasonably withheld.

(f) Temporary employees.—

(1) Temporary professional employees on leave from a school district may accrue tenure in the noncharter public school system at the discretion of the local board of school directors in the same manner as they would under Article XI if they had continued to be employed by that district.

(2) Professional employees on leave from a school district shall retain their tenure rights, as provided for in Article XI, in the school entity from which they came. No temporary professional employee or professional employee shall have tenure rights against a charter school entity.

(3) Both temporary professional employees and professional employees shall continue to accrue seniority in the school entity from which they came if they return to that school entity when the leave ends.

(g) Professional employees.—Professional employees who hold a first-level teaching or administrative certificate may, at their option, have the time completed in satisfactory service in a charter school entity applied to the length of service requirements for the next level of certification.

(h) Right to return.—The following shall apply:

(1) (i) A temporary professional employee or professional employee who leaves employment at a charter school entity shall have the right to return to a comparable position for which the person is properly certified in the school entity which granted the leave of absence.

(ii) If a teacher has been dismissed by the charter school entity, the school entity that granted the leave of absence shall be provided by the charter school entity with the reasons for the dismissal at the time it occurs, a list of any witnesses who were relied on by the charter school entity in moving for dismissal, a description of and access to any physical evidence used by the charter school entity in moving for dismissal and a copy of any record developed at any dismissal proceeding conducted by the charter school entity.

(iii) The record of the hearing may be admissible in a hearing before the school entity which granted the leave of absence.

(iv) Nothing under this section shall affect the authority of the board of school directors to initiate proceedings under Article XI if the board determines that occurrences at the charter school entity leading to dismissal of a teacher constitute adequate and independent grounds for discipline under section 1122.

(2) No temporary employee or professional employee who is leaving employment at a charter school entity shall be returned to a position in the public school district that granted his leave of absence until the public school district is in receipt of a current criminal history record under section 111 and the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required under 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools).

(i) Criminal history.—All individuals who have direct contact with students shall be required to submit a report of criminal history record information required under section 111 prior to accepting a position with the charter school entity. This subsection shall apply to all

individuals who have direct contact with students, including volunteers who work on a full-time or part-time basis at the charter school entity.

(j) Official clearance statement.—All applicants for a position as a school employee and any individual who volunteers to work on a full-time or part-time basis at a charter school entity shall be required to submit the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required under 23 Pa.C.S. Ch. 63 Subch. C.2.

Section 1728-C. Funding.

(a) General rule.—Funding for a charter school entity shall be provided in the following manner:

(1) There shall be no tuition charge for a resident or nonresident student attending a charter school entity.

(2) (i) For nonspecial education students, the charter school entity shall receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the budgeted expenditures of the district of residence for all of the following:

(A) Nonpublic school programs.

(B) Adult education programs.

(C) Community and junior college programs.

(D) Student transportation services.

(E) Special education programs.

(F) Facilities acquisition, construction and improvement services.

(G) Other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems established by the department.

(ii) (A) The amount under subparagraph (i) shall be paid by the school district of residence of each student by deduction and transfer from all State payments to the district as provided under paragraph (5).

(B) If a charter school entity disputes the accuracy of a district's calculation under this paragraph, the charter school entity shall file a notice of the dispute with the secretary who shall hold a hearing to determine the accuracy of the district's calculation within 30 days of the notice.

(C) The secretary shall determine the accuracy of the district's calculation within 30 days of the hearing.

(D) The district shall bear the burden of production and proof with respect to its calculation under this paragraph.

(E) The district shall be liable for the reasonable legal fees incurred by a charter school entity if the charter school entity is the substantially prevailing party after a hearing under this section. The charter school entity shall be liable for the reasonable legal fees incurred by the district if the district is the substantially prevailing party after a hearing under this section.

(F) All decisions of the secretary under this paragraph shall be subject to appellate review by Commonwealth Court.

(3) (i) For special education students, the charter school entity shall receive for each student enrolled the same funding as for each nonspecial education student as provided under paragraph (2), plus an additional amount determined by dividing the school district of residence's total special education expenditure by the product of multiplying the combined percentage of section

2509.5(k) applicable to the school year times the school district of residence's total average daily membership for the prior school year.

(ii) The amount under subparagraph (i) shall be paid by the school district of residence of each student by deduction and transfer from all State payments to the district as provided under paragraph (5).

(iii) If a charter school entity disputes the accuracy of a district's calculation under this paragraph, the charter school entity shall file a notice of the dispute with the secretary, who shall hold a hearing to determine the accuracy of the district's calculation within 30 days of the notice.

(iv) The secretary shall determine the accuracy of the district's calculation within 30 days of the hearing.

(v) The district shall bear the burden of production and proof with respect to its calculation under this paragraph.

(vi) The district shall be liable for the reasonable legal fees incurred by a charter school entity if the charter school entity is the substantially prevailing party after a hearing under this section. The charter school entity shall be liable for the reasonable legal fees incurred by the school district if the district is the substantially prevailing party after a hearing under this section.

(vii) All decisions of the secretary under this section shall be subject to appellate review by Commonwealth Court.

(4) A charter school entity may request the intermediate unit or school district in which the school is located to provide services to assist the school to address the specific needs of nonspecial education and exceptional students. The intermediate unit or school district shall assist the charter school entity and bill the school for the services. The intermediate unit may not charge the charter school entity more for any service than it charges the constituent districts of the intermediate unit. Nothing under this section shall preclude an intermediate unit or school district from contracting with a charter school entity to provide the intermediate unit or school district with services to assist the intermediate unit or school district to address specific needs of nonspecial education and special education students.

(5) (i) Payments shall be made to the charter school entity in 12 equal monthly payments, by the fifth day of each month, within the operating school year.

(ii) Payments shall be made by the secretary deducting and paying to the charter school entity the estimated amount, as documented by the charter school entity, from all State payments made to the district or if no payments have been made to the district, from all State payments reasonably expected to be made, after receipt of documentation from the charter school entity as to its enrollment.

(iii) The secretary's obligation to make payments under this section shall be mandatory and ministerial. If there are insufficient State payments being made to a district to cover all charter school entity deductions and transfers, the district shall be responsible for paying the unpaid balance directly to the charter school entity by the 15th day of each month.

(iv) A student enrolled in a charter school entity shall be included in the average daily membership of the student's school district of residence for the purpose of providing basic education funding payments and special education funding under Article XXV.

(6) (i) Within 30 days after the secretary transfers the funds described under paragraph (5), a school district may notify the secretary that the deduction made from

State payments to the district under this subsection is inaccurate.

(ii) The secretary shall provide the school district with an opportunity to be heard concerning whether the charter school entity documented that its students were enrolled in the charter school entity, the period of time during which each student was enrolled, the school district of residence of each student and whether the amounts deducted from the school district were accurate.

(iii) The burden of proof and production at the hearing shall be on the school district. A hearing shall not be held before the secretary deducts and transfers to the charter school entity the amount estimated by the charter school entity.

(iv) The district shall be liable for the reasonable legal fees incurred by a charter school entity if the charter school entity is the substantially prevailing party after a hearing under this section. The charter school entity shall be liable for the reasonable legal fees incurred by the district if the district is the substantially prevailing party after a hearing under this section.

(v) All decisions of the secretary under this section shall be subject to appellate review by Commonwealth Court.

(vi) Supersedeas shall not be granted to the secretary or any party to the proceeding on an appeal from the decision of the secretary under this section and, absent a court order, the secretary shall not hold any payments in escrow.

(b) Temporary financial assistance.—

(1) The Commonwealth shall provide temporary financial assistance to a school district due to the enrollment of students in a charter school entity who attended a nonpublic school in the prior school year in order to offset the additional costs directly related to the enrollment of those students in a public charter school entity.

(2) The Commonwealth shall pay the school district of residence of a student enrolled in a nonpublic school in the prior school year who is attending a charter school entity an amount equal to the school district of residence's basic education subsidy for the current school year divided by the district's average daily membership for the prior school year.

(3) The payment under paragraph (3) shall occur only for the first year of the attendance of the student in a charter school entity, starting with school year 1997-1998.

(4) Total payments of temporary financial assistance to school districts on behalf of a student enrolling in a charter school entity who attended a nonpublic school in the prior school year shall be limited to funds appropriated for this program in a fiscal year. If the total of the amount needed for all students enrolled in a nonpublic school in the prior school year who enroll in a charter school entity exceeds the appropriation for the temporary financial assistance program, the amount paid to a school district for each qualifying student shall be pro rata reduced.

(c) Gifts and donations.—It shall be lawful for any charter school entity to receive, hold, manage and use, absolutely or in trust, any devise, bequest, grant, endowment, gift or donation of any property, real or personal and mixed, which shall be made to the charter school entity for any purpose of this article.

(d) Requests or demands for gifts.—It shall be unlawful for any trustee of a charter school entity or any board of trustees of a charter school entity or any other person affiliated in any way with a charter school entity to demand or request, directly or indirectly, any gift, donation or contribution of any kind from any parent, teacher, employee or any other person affiliated with the school as a condition for employment or enrollment and continued attendance of any pupil.

Any donation, gift or contribution received by a charter school entity must be given freely and voluntarily.

(e) Discounts.—A cyber charter school shall not provide discounts to a school district or waive payments under this section for any student.

Section 1729-C. Transportation.

(a) General rules.—

(1) Except as provided under paragraph (2), students who attend any of the following shall be provided free transportation to the charter school or regional charter school by their school district of residence on the dates and periods that the charter school or regional charter school is in session whether or not transportation is provided on the dates and periods to students attending schools of the district:

(i) A charter school located in their school district of residence.

(ii) A regional charter school of which the school district is a part.

(iii) A charter school located outside district boundaries at a distance not exceeding ten miles by the nearest public highway.

(2) (i) Except as provided under subparagraph (ii), transportation shall not be required for elementary students, including kindergarten students, residing within one and one-half miles or for secondary students residing within two miles of the nearest public highway from the charter school or regional charter school in which the students are enrolled unless the road or traffic conditions are such that walking constitutes a hazard to the safety of the students when certified by the Department of Transportation.

(ii) If the school district provides transportation to the public schools of the school district for elementary students, including kindergarten students, residing within one and one-half miles or for secondary students residing within two miles of the nearest public highway under nonhazardous conditions, transportation shall be provided to charter schools and regional charter schools under the same conditions.

(3) Districts providing transportation to a charter school or regional charter school outside the district and, for the 2007-2008 school year and each school year thereafter, districts providing transportation to a charter school or regional charter school within the district shall be eligible for payments under section 2509.3 for each public school student transported. A school district shall not be responsible for providing transportation to a charter school or regional charter school located outside the borders of this Commonwealth.

(4) If a school district does not provide transportation to a charter school or regional charter school student because the student's placement is outside the district boundaries at a distance of more than ten miles by the nearest public highway, when determining the per pupil subsidy to be paid under section 1728-C by the school district to the charter school or regional charter school for that student, the district shall not be entitled to subtract its student transportation services expenses.

(b) School districts of the first class.—In addition to any other requirements under this section, school districts of the first class shall provide transportation to students who attend a charter school or regional charter school if they are the same age or are enrolled in the same grade, grades or their grade equivalents as any of the students of the school district for whom transportation is provided under any program or policy to the schools of the school district.

(c) Students with disabilities.—

(1) In addition to any other requirements under this section, the school district of residence of a student who is eligible under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) or is a protected

student with disabilities under section 504 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.) who is enrolled in a charter school entity shall be responsible for providing free transportation to the charter school entity student to any alternative location, school or building in which the charter school entity student has been alternatively placed, provided that the alternative locations, schools or buildings are located within the district boundaries or outside the district boundaries at a distance not exceeding ten miles by the nearest public highway.

(2) The transportation under paragraph (1) shall be provided on the dates and periods as required by the student's individualized educational program or section 504 of the Rehabilitation Act of 1973 service agreement whether or not transportation is provided on the dates and periods to students attending schools of the district.

(3) If a school district does not provide transportation to an alternatively placed student because the student's alternative placement is outside the district boundaries at a distance of more than ten miles by the nearest public highway, when determining the per pupil subsidy to be paid under section 1728-C by the school district to the charter school entity for that student, the district shall not be entitled to subtract its student transportation services expenses.

(d) Payment.—

(1) If the secretary determines that a school district is not providing the required transportation to students to the charter school entity the department shall pay directly to the charter school entity funds for costs incurred in the transportation of its students.

(2) For each eligible student transported, the charter school entity shall receive a payment equal to the total expenditures for transportation of the school district divided by the total number of school students transported by the school district under any program or policy.

(3) Within 30 days after receipt of the documentation from the charter school entity, the secretary shall deduct and pay the charter school entity the estimated amount, as documented by the charter school entity from the State payment made to the district for transportation.

(4) The district from which the estimated transportation payment has been deducted may request a hearing from the department which the secretary shall hold within 30 days of the request.

(5) The secretary shall render a decision after the hearing and shall not delegate this duty unless there is a conflict from which he must recuse himself after full disclosure.

(6) The district shall be liable for the reasonable legal fees incurred by a charter school entity in attempting to obtain payment by the district.

(7) The charter school entity shall be liable for the reasonable legal fees incurred by the district if the district is the substantially prevailing party after a hearing under this section.

(8) Supersedeas shall not be granted to the department or the school district and, absent a court order, the department shall not hold any payments in escrow.

(e) Current transportation policy.—A school district of the first class shall submit a copy of its current transportation policy to the department no later than August 1 of each year.
Section 1730-C. Tort liability.

For purposes of tort liability, employees of the charter school entity shall be considered public employees and the board of trustees shall be considered the public employer in the same manner as political subdivisions and local agencies. The board of trustees of a charter school entity and the charter school entity shall be solely liable for all damages of any kind resulting from any legal challenge involving the operation of a charter school entity. Notwithstanding this section, the local board of directors of a school entity or an authorizer may not be

held liable for any activity or operation related to the program of the charter school entity.

Section 1731-C. Annual reports and assessments.

(a) Duty.—

(1) The authorizer shall annually assess on a standard form developed by the commission whether each charter school entity is meeting the goals of its charter and shall conduct a comprehensive review prior to the renewal process as outlined in section 1723-C.

(2) The authorizer shall have ongoing reasonable access to the records and facilities of the charter school entity to ensure that the school is in compliance with its charter, this article and that the requirements for testing, civil rights and student health and safety are being met. Ongoing reasonable access to a charter school entity's records shall mean that the authorizer shall have access to records such as financial reports, financial audits, aggregate standardized test scores without student identifying information and teacher certification and personnel records.

(3) Schools and their authorizers shall comply fully with the requirements of the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g) and associated regulations.

(4) No personally identifiable information from education records shall be provided by the charter school entity to its authorizer except in compliance with the Family Educational Rights and Privacy Act of 1974.

(b) Annual report.—

(1) In order to facilitate the authorizer's review, each charter school entity shall submit an annual report on a standard form developed by the commission no later than September 1 of each year to the authorizer. Within ten days of receipt of the annual report, the authorizer shall certify to the charter school entity that the annual report has been received with an indication of the date of receipt. Within 30 days of the date of receipt, the authorizer shall certify to the charter school entity that the annual report has been reviewed and is complete or alternatively, has been reviewed and is missing specific information referenced in the certification.

(2) For fiscal year 2013-2014 and each fiscal year thereafter, all authorizers shall submit an annual financial report on a standard form developed by the commission to the Governor's Office of the Budget, the Appropriations Committee of the Senate, the Appropriation Committee of the House of Representatives, the Education Committee of the Senate and the Education Committee of the House of Representatives no later than October 1 of each year. The financial report shall list all oversight activities performed by the authorizer in the previous year, as well as a financial accounting of all staff and resources used for oversight activities for each charter school entity chartered by the authorizer. The annual financial report under this paragraph shall be a public document under the Right-to-Know Law and shall be made available on the authorizer's Internet website.

(c) Independent audit committee.—Every charter school entity shall form an independent audit committee of its board members that shall review at the close of each fiscal year a complete certified audit of the operations of the charter school entity. The audit shall be conducted by a qualified independent certified public accountant as selected from a list of approved providers established by the commission. The audit shall be conducted under generally accepted audit standards of the Governmental Accounting Standards Board (GASB) and shall include the following:

(1) An enrollment test to verify the accuracy of student enrollment and reporting to the Commonwealth.

(2) Full review of expense reimbursements for board members and administrators, including sampling of all reimbursements.

(3) Review of internal controls, including review of

receipts and disbursements.

(4) Review of annual Federal and State tax filings, including the Internal Revenue Service Code Form 990, Return of Organization Exempt from Income Tax, and all related schedules and appendices for the charter school entity and charter school foundation, if applicable.

(5) Review of the financial statements of any charter school foundation which shall be included in the independent audit.

(6) Review of the selection and acceptance process of all contracts publicly bid under section 751.

(7) Review of all board policies and procedures with regard to internal controls, code of ethics, conflicts of interest, whistle-blower protections, complaints from parents or the public, compliance with 65 Pa.C.S. Ch. 7 (relating to open meetings), compliance with the Right-to-Know Law, finances, budgeting, audits, public bidding and bonding.

(8) Any other test the commission deems appropriate.

(d) Public document.—The certified audit under subsection (c) and the annual budget under subsection (f) shall be public documents under the Right-to-Know Law and shall be made available on the authorizer's Internet website and the charter school entity's Internet website, if applicable.

(e) Annual audit.—Charter school entities may be subject to an annual audit by the Auditor General, in addition to any other audits required by Federal law or this article.

(f) Annual budget.—Charter school entities shall annually provide the authorizer and the department with a copy of the annual budget for the operation of the school that identifies the following:

(1) The source of funding for all expenditures as part of its reporting under subsection (a).

(2) If funding is provided by a charter school foundation, the amount of funds and a description of the use of the funds.

(3) The salaries of all administrators of the charter school entity.

(g) Tax filings.—Notwithstanding any other provision of law, the charter school entity and any affiliated charter school foundations shall make copies of its annual Federal and State tax filings available upon request and on the foundation's or school's Internet website, if applicable, including Internal Revenue Service Code Form 990, Return of Organization Exempt from Income Tax, and all related schedules and appendices. The charter school foundation shall make copies of its annual budget available upon request and on the foundation's or the school's Internet website within 30 days of the close of the foundation's fiscal year. The annual budget shall include the salaries of all employees of the charter school foundation.

Section 1732-C. Desegregation orders.

If a school district is operating under a desegregation plan approved by the Pennsylvania Human Relations Commission or a desegregation order by a Federal or State court, an authorizer shall not approve a charter school entity application if the school would place the school district in noncompliance with its desegregation order.

Section 1733-C. Applicable provisions.

(a) Charter school entities.—Charter school entities shall be subject to the following:

(1) Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1205.3, 1205.5, 1301, 1302, 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1513, 1517, 1518, 1521, 1523, 1531, 1547, 2014-A, Articles XIII-A and XIV.

(2) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(3) The act of July 17, 1961 (P.L.776, No.341), known as the Pennsylvania Fair Educational Opportunities Act.

(4) The act of July 19, 1965 (P.L.215, No.116), entitled "An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known

dangers in schools, colleges and universities."

(5) Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled "An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary institutions of higher learning, making an appropriation and providing for the administration of this act."

(6) The act of July 12, 1972 (P.L.765, No.181), entitled "An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations."

(7) The act of December 15, 1986 (P.L.1595, No.175), known as the Antihazing Law.

(8) The Right-to-Know Law.

(9) 65 Pa.C.S. Ch. 7 (relating to open meetings).

(10) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(b) Construction projects and related work.—Boards of trustees and contractors of charter school entities shall be subject to the following statutory requirements governing construction projects and construction-related work:

(1) Sections 751 and 751.1.

(2) Sections 756 and 757 insofar as they are consistent with the act of December 20, 1967 (P.L.869, No.385), known as the Public Works Contractors' Bond Law of 1967.

(c) Charter schools.—Charter schools and regional charter schools shall be subject to sections 1205.4, 1303 and 1317.3.

(d) Regulations.—Charter school entities shall be subject to the following provisions of 22 Pa. Code (relating to education):

(1) Chapter 4 (relating to academic standards and assessment).

(2) Chapter 11 (relating to student attendance).

(3) Chapter 12 (relating to students and student services).

(4) Section 32.3 (relating to assurances).

(5) Section 121.3 (relating to discrimination prohibited).

(6) Section 235.4 (relating to practices).

(7) Section 235.8 (relating to civil rights).

(8) Chapter 711 (relating to charter school and cyber charter school services and programs for children with disabilities).

Section 1734-C. Effect on certain existing charter school entities.

(a) General rule.—A charter school or regional charter school approved by a local board of school directors, a special board of control or a School Reform Commission prior to the effective date of this section shall continue to operate under the current charter. All charter schools or regional charter schools approved after the effective date of this section shall be in full compliance with this article.

(b) Expiration of charters approved under this article.—Upon expiration of its charter, a charter school or regional charter school approved under section 1718-C or 1719-C shall seek renewal of its charter from the original authorizer. The charter shall be amended as needed to reflect the requirements of this article. Any renewal that takes effect after June 30, 2012, shall be for the term specified under section 1723-C(b).

(c) Transfer of charter.—

(1) A charter school or regional charter school approved by a local board of school directors, a special board of control or a School Reform Commission prior to the effective date of this section may transfer its charter to the oversight of the commission at any time after June 30, 2012.

(2) The board of trustees of the charter school or regional charter school shall submit the school's current charter and annual reports to the commission and request that the commission become the authorizer of the charter school or regional charter school.

(3) Upon receipt of a transfer request and all necessary

documentation as required by the commission, the request shall be deemed approved unless, within 30 days of that date, the commission schedules a public hearing concerning the transfer request.

(4) The transfer under paragraph (3) shall be presumed approved and be denied only if the commission determines that the charter school or regional charter school would otherwise be subject to revocation or nonrenewal pursuant to the criteria in section 1723-C(c).

(5) The commission shall conduct the hearing under section 1720-C, present evidence in support of the transfer denial stated in its notice and give the charter school or regional charter school reasonable opportunity to offer testimony before taking final action.

(6) If a hearing does occur relating to a school's transfer request, formal action approving or denying the transfer shall be taken by the commission at a public meeting under section 1720-C and 65 Pa.C.S. Ch. 7 (relating to open meetings) after the public has had 30 days to provide comments to the members of the commission.

(7) If the commission denies the transfer, the decision shall not act as revocation or nonrenewal of the current charter, nor shall the proceedings and commission decision related to the transfer be used as evidence in any revocation or nonrenewal proceedings conducted by an authorizer.

(8) If the commission approves the transfer, the commission shall provide notification by certified board resolution to the local board of school directors, the special board of control or the School Reform Commission which initially approved the charter.

(9) No later than 30 days after receipt of the certified board resolution under paragraph (8), the local board of school directors, the special board of control or the School Reform Commission which initially approved the charter shall transfer to the commission all records regarding oversight of the charter school or regional charter school.

(10) The school's charter term shall remain in effect until the time of expiration, at which time the commission shall undertake a comprehensive review under section 1731-C(a).

(11) The appeal board shall have exclusive review of an appeal by a charter school or regional charter school of a decision made by the commission to deny a charter transfer.

(d) Existing cyber charter schools.—A cyber charter school approved by the department prior to the effective date of this section shall continue to operate under the current charter, except that all oversight shall be transferred to the commission beginning July 1, 2012.

(e) Expiration of existing charters.—Upon expiration of its charter, a cyber charter school approved prior to the effective date of this section shall seek renewal of its charter from the commission under this article. The charter shall be amended as needed to reflect the requirements of this article. All cyber charter schools approved or renewed after the effective date of this section shall be in full compliance with this article.

(f) Merger.—

(1) A charter school that was approved by a local board of school directors, a special board of control or a School Reform Commission prior to the effective date of this section, which chooses to merge into a multiple charter school organization under section 1735-C, may apply to the commission to consolidate all affiliated school charters into a single charter within one year after the publication of the performance matrix to be established by the commission under section 1704-C(h)(12).

(2) The board of trustees of each charter school shall jointly submit their charter school's current charter and annual report to the commission and request that the commission become the authorizer of the multiple charter school organization.

(3) Upon receipt of the consolidation and transfer request and all necessary documentation as required by the commission, the commission shall have 30 days to approve or deny the consolidation and transfer request by a majority vote. If the commission approves the consolidation and transfer, the commission shall provide notification by certified board resolution to the local board of school directors, the special board of control or the School Reform Commission which initially approved the charter.

(4) No later than 30 days after the receipt of the certified board resolution, the local board of school directors, the special board of control or the School Reform Commission which initially approved the charter shall transfer to the commission all records regarding oversight of the charter school.

(5) The school's charter term shall remain in effect until the time of expiration, at which time the commission will undertake a comprehensive review prior to granting a ten-year charter renewal.

Section 1735-C. Multiple charter school organization.

(a) Establishment.—

(1) Subject to the requirements of section 1734-C(f), two or more charter schools may merge or consolidate under 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit corporations) into a multiple charter school organization. Nothing under this article shall preclude a single charter school with an existing charter and with a demonstrated rate of success in the areas of academics, operations, finances and governance from simultaneously filing an application with the commission to operate an additional charter school and an application to operate as a multiple charter school organization.

(2) The multiple charter school organization shall be:

(i) granted a single charter to operate two or more individual charter schools under the oversight of a single board of trustees and a chief administrator who shall oversee and manage the operation of the individual charter schools under its organization;

(ii) considered a charter school; and

(iii) subject to all of the requirements of this article unless otherwise provided for under this section.

(3) Nothing under this subsection shall be construed to affect or change the terms or conditions of any individual charter previously granted that is consolidated under this section.

(b) Application.—The commission shall develop and issue a standard application form for multiple charter school organization applicants, which shall contain the following information:

(1) The identification of the multiple charter school organization.

(2) The names of the charter schools seeking merger or consolidation under subsection (a).

(3) A copy of the approved charters of each charter school agreeing to merge or consolidate administrative functions with the commission under subsection (a).

(4) An organizational chart clearly presenting the proposed governance structure of the multiple charter school organization, including lines of authority and reporting between the board of trustees, chief administrator, administrators, staff and any educational management service provider that will play a role in providing management services to the charter schools under its jurisdiction.

(5) A clear description of the roles and responsibilities for the board of trustees, chief administrator, administrators and any other entities, including a charter school foundation, shown in the organizational chart.

(6) A clear description and method for the appointment or election of members of the board of trustees.

(7) Standards for board performance, including compliance with all applicable laws, regulations and terms of the charter.

(8) Enrollment procedures for each individual charter school included in its charter.

(9) Any other information as deemed necessary by the commission.

(c) Authorization.—The commission shall serve as the authorizer of a multiple charter school organization.

(d) Special conditions.—A multiple charter school organization may:

(1) Participate in the assessment systems in the same manner in which a school district participates and its individual charter schools shall participate in the assessment systems in the same manner as individual schools in school districts. All data gathered for purposes of evaluation shall be gathered in a like manner.

(2) Add new charter schools to its organization via the application process included under section 1721-C.

(3) Add existing charter schools to its organization or amend the individual charters of each charter school under its organization via the amendment process included under section 1722-C.

(4) Allow students enrolled in an individual charter school to matriculate to another individual charter school under its oversight so as to complete a course of instruction in an educational institution from kindergarten through grade 12.

(e) Annual reports.—The annual report required under section 1731-C shall be provided by the board of trustees and chief administrator of the multiple charter school organization and shall include all information required to provide a basis for evaluation for renewal of each individual charter school under the organization's oversight.

(f) Renewal.—A multiple charter school organization shall be regarded as the holder of the charter of each individual charter school under its oversight and each such previously or subsequently awarded charter shall be subject to nonrenewal or revocation in accordance with this act. The nonrenewal or revocation shall not affect the status of a charter awarded for any other individual charter school under its oversight.

Section 1736-C. Special cyber charter school requirements.

(a) Special financial requirements.—A cyber charter school may not:

(1) Except as provided for under subsection (b), provide payments to parents or guardians for the purchase of instructional materials.

(2) Except as compensation for the provision of specific services, enter into agreements to provide funds to a school entity.

(b) Materials.—For each student enrolled, a cyber charter school shall provide all instructional materials and equipment, such as a computer, computer monitor and printer and shall provide or provide reimbursement for, technology and services necessary for online delivery of the curriculum and instruction. The Commonwealth shall not be liable for reimbursement owed to students, parents or guardians by a cyber charter school.

(c) Information to school districts.—Upon request, a cyber charter school shall make available in writing or electronically to each student's school district of residence the following:

(1) A copy of the charter.

(2) A copy of the cyber charter school application.

(3) A copy of all annual reports prepared by the cyber charter school.

(4) A list of all students from that school district enrolled in the cyber charter school.

(d) Information to parent or guardian.—Upon request and prior to the student's first day in a cyber charter school, the cyber charter school shall, either in writing or electronically, provide to the parent or guardian of a student the following:

(1) A list and brief description of the courses of instruction the student will receive. The list shall be updated

annually for each grade level in which the student is enrolled.

(2) A description of the lessons and activities to be offered both online and offline.

(3) The manner in which attendance will be reported and work will be authenticated.

(4) A list of all standardized tests the student will be required to take during the school year and the place where the test will be administered, if available.

(5) The meetings to be held during the school year between a parent or guardian and a teacher and among other school officials or parents or guardians and the manner in which the parent or guardian will be notified of the time and place for the meeting.

(6) The address of the cyber charter school and the name, telephone number and e-mail address of the chief school administrator and other school personnel.

(7) A list of any extracurricular activities provided by the cyber charter school.

(8) The names of the student's teachers, if available, and the manner in which each teacher can be contacted by the student or the parent or guardian.

(9) A list of all services that will be provided to the student by the cyber charter school.

(10) Copies of policies relating to computer security and privacy, truancy, absences, discipline and withdrawal or expulsion of students.

(11) Information concerning all of the following:

(i) The cyber charter school's professional staff, including the number of staff personnel, their education level and experience.

(ii) The cyber charter school's performance on the Pennsylvania System of School Assessment and other standardized test scores.

(12) Information regarding the proper usage of equipment and materials and the process for returning equipment and materials supplied to the students by the cyber charter school. A parent or guardian shall acknowledge, either in writing or electronically, the receipt of this information.

(13) A description of the school calendar, including, the time frame that will constitute a school year and a school week, holidays and term breaks.

(e) Offices and facilities.—A cyber charter school shall maintain an administrative office within this Commonwealth where all student records shall be maintained at all times and shall provide the commission with the addresses and ownership of all offices and facilities of the cyber charter school and any lease arrangements. The administrative office of the cyber charter school shall be considered to be the principal place of business for service of process for any action brought against the cyber charter school or cyber charter school staff members. The cyber charter school shall notify the commission of any changes in this information within ten days of the change.

(f) Applicable law.—Any action taken against the cyber charter school, its successors or assigns or its employees, including any cyber charter school staff member as defined in the act of December 12, 1973 (P.L.397, No.141), known as the Professional Educator Discipline Act, shall be governed by the laws of this Commonwealth. If the department initiates an investigation or pursues an action under the Professional Educator Discipline Act involving a current or former charter school staff member outside this Commonwealth, reasonable expenses incurred by the department in the investigation or action shall be paid by the cyber charter school which employed that staff member at the time of the alleged misconduct.

(g) School district and intermediate unit access for testing.—The intermediate unit or school district in which a student enrolled in a cyber charter school resides shall provide the cyber charter school with reasonable access to its facilities for administration of all required standardized tests.

ARTICLE XIX-G

STATE MILITARY COLLEGE LEGISLATIVE APPOINTMENT INITIATIVE PROGRAM

Section 1901-G. Scope.

This article relates to the State Military College Legislative Appointment Initiative Program.

Section 1902-G. Definitions.

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

"Committee." A State military college selection committee.

"ECP." The Early Commissioning Program of the United States Army.

"ROTC." Reserve Officers' Training Corps.

"Scholarship program." The term shall have the same meaning as given to it in section 2501-B.

"State military college." A coeducational, postsecondary, two-year institution, a part of which is located in a county of the third class, whose mission is to educate students in both an academic and military environment.

Section 1903-G. The State Military College Legislative Appointment Initiative Program.

(a) Establishment.—The State Military College Legislative Appointment Initiative Program is established within the General Assembly.

(b) State military college selection committee.—Each member of the General Assembly may establish a State military college selection committee. The committee shall serve the legislative district of the member. The State Ethics Commission shall develop guidelines to govern the establishment and functions of committees to help ensure that the committees and the legislative appointments do not create any conflicts of interest or otherwise violate 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) or the act of July 10, 1968 (P.L.316, No.154), known as the Legislative Code of Ethics.

(c) Appointments.—Each member of the General Assembly may annually appoint an eligible student who is a resident of the member's legislative district for guaranteed initial enrollment in a State military college. Appointments must be made at the sole recommendation of a State military college selection committee. A State military college shall offer initial enrollment to any eligible student appointed under this article.

(d) Educational funding.—Nothing in this article shall be construed to establish a scholarship granted or funded by the Commonwealth.

(e) Eligibility.—An individual may be recommended by a committee for appointment if the individual meets all of the following requirements:

(1) Graduation from high school or earning a general educational development diploma or the equivalent thereof.

(2) Maintenance of domicile within this Commonwealth during the term of the appointment.

(3) Compliance with any conditions placed upon the appointee by a State military college, including all ECP admission requirements and requirements deemed necessary to successfully matriculate at a State military college.

(f) Application.—A student shall apply to a committee for a recommendation for appointment in a manner prescribed by the committee, to include the provision of all information and documentation required by the committee.

(g) Review.—The committee shall review each application to determine which student is best qualified to receive a recommendation for appointment. In making its determination the committee may consider whether the student was an eligible student who received a scholarship under a scholarship program established under the Educational Improvement Tax Credit under Article XXV-B.

(h) Termination.—If a student terminates enrollment in a State military college during an academic year or prior to completing the two-year program, the State military college shall notify the appointing legislator in writing.

(i) Annual report.—Any member of the General Assembly who establishes a committee under subsection (b) shall file an annual report with the State Ethics Commission that shall include the name of each member of the selection committee for that year, the names and addresses of applicants for appointment and the name of the applicant who is appointed after final selection.

Section 1904-G. Expiration.

This article shall expire June 30, 2016.

ARTICLE XXV-B

EDUCATIONAL IMPROVEMENT TAX CREDIT

Section 2501-B. Definitions.

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

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article III, IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. The term includes a pass-through entity.

"Contribution." A donation of cash, personal property or services, the value of which is the net cost of the donation to the donor or the pro rata hourly wage, including benefits, of the individual performing the services.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Educational improvement organization." A nonprofit entity which:

(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

(2) contributes at least 80% of its annual receipts as grants to a public school, a chartered school as defined in section 1376.1 or a private school approved under section 1376 for innovative educational programs.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts when it expends or otherwise irrevocably encumbers those funds for expenditure during the then current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity. A "nonprofit entity" includes a school district foundation, public school foundation, charter school foundation or cyber charter school foundation.

"Eligible prekindergarten student." A student, including an eligible student with a disability, who is enrolled in a prekindergarten program and is a member of a household with a maximum annual household income as increased by the applicable income allowance.

"Eligible student." A school-age student, including an eligible student with a disability, who is enrolled in a school and is a member of a household with a maximum annual household income as increased by the applicable income allowance.

"Eligible student with a disability." A prekindergarten student or a school-age student who meets all of the following:

(1) Is either enrolled in a special education school or has otherwise been identified, in accordance with 22 Pa. Code Ch. 14 (relating to special education services and programs), as a "child with a disability," as defined in 34 CFR § 300.8 (relating to child with a disability).

(2) Needs special education and related services.

(3) Is enrolled in a prekindergarten program or in a school.

(4) Is a member of a household with a household income of not more than the maximum annual household income.

"Household." An individual living alone or with the following: a spouse, parent and their unemancipated minor children, other unemancipated minor children who are related by blood or marriage or other adults or unemancipated minor children living in the household who are dependent upon the individual.

"Household income." All moneys or property received of whatever nature and from whatever source derived. The term does not

include the following:

(1) Periodic payments for sickness and disability other than regular wages received during a period of sickness or disability.

(2) Disability, retirement or other payments arising under workers' compensation acts, occupational disease acts and similar legislation by any government.

(3) Payments commonly recognized as old-age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment.

(4) Payments commonly known as public assistance or unemployment compensation payments by a governmental agency.

(5) Payments to reimburse actual expenses.

(6) Payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, Social Security and retirement.

(7) Compensation received by United States servicemen serving in a combat zone.

"Income allowance."

(1) Subject to paragraph (2), the amount of:

(i) Before July 1, 2011, \$10,000 for each eligible student, eligible prekindergarten student and dependent member of a household.

(ii) After June 30, 2011, through June 30, 2012, \$12,000 for each eligible student, eligible prekindergarten student and dependent member of a household.

(iii) After June 30, 2012, through June 30, 2013, \$15,000 for each eligible student, eligible prekindergarten student and dependent member of a household.

(2) Beginning July 1, 2013, the Department of Community and Economic Development shall annually adjust the income allowance amounts under paragraph (1) to reflect any upward changes in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the adjusted amounts to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.

"Innovative educational program." An advanced academic or similar program that is not part of the regular academic program of a public school but that enhances the curriculum or academic program of a public school, chartered school as defined in section 1376.1(a) or private school approved in accordance with section 1376, or provides prekindergarten programs to public school students, students of a chartered school as defined in section 1376.1(a) or students of a private school approved in accordance with section 1376.

"Maximum annual household income."

(1) Except as stated in paragraph (2) and subject to paragraph (3), the following:

(i) Before July 1, 2011, not more than \$50,000.

(ii) After June 30, 2011, through June 30, 2012, not more than \$60,000.

(iii) After June 30, 2012, not more than \$75,000.

(2) With respect to an eligible student with a disability, as calculated by multiplying:

(i) the sum of:

(A) the applicable amount under paragraph (1); and

(B) the applicable income allowance; by

(ii) the applicable support level factor according to the following table:

Support Level	Support Level Factor
1	1.50
2	2.993

(3) Beginning July 1, 2013, the Department of Community and Economic Development shall annually adjust the income amounts under paragraphs (1) and (2) to reflect any upward changes in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the adjusted amounts to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.

"Pass-through entity." A partnership as defined in section 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, a single-member limited liability company treated as a disregarded entity for Federal income tax purposes or a Pennsylvania S corporation as defined in section 301(n.1) of the Tax Reform Code of 1971.

"Prekindergarten program." A program of instruction for three-year-old or four-year-old students that utilizes a curriculum aligned with the curriculum of the school with which it is affiliated and that provides:

(1) a minimum of two hours of instructional and developmental activities per day at least 60 days per school year; or

(2) a minimum of two hours of instructional and developmental activities per day at least 20 days over the summer recess.

"Prekindergarten scholarship organization." A nonprofit entity that:

(1) Either is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate segregated fund by a scholarship organization that has been qualified under section 2502-B.

(2) Contributes at least 80% of its annual cash receipts to a prekindergarten scholarship program by expending or otherwise irrevocably encumbering those funds for distribution during the then current fiscal year of the organization or during the next succeeding fiscal year of the organization.

"Prekindergarten scholarship program." A program to provide tuition to eligible prekindergarten students to attend a prekindergarten program operated by or in conjunction with a school located in this Commonwealth and that includes an application and review process for the purpose of making awards to eligible prekindergarten students and awards scholarships to eligible prekindergarten students without limiting availability to only students of one school.

"Public school." A public prekindergarten where compulsory attendance requirements do not apply or a public kindergarten, elementary school or secondary school at which the compulsory attendance requirements of this Commonwealth may be met and that meets the applicable requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"Scholarship." An award under a scholarship program.

"Scholarship organization." A nonprofit entity that:

(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

(2) contributes at least 80% of its annual cash receipts to a scholarship program.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts to a scholarship program when it expends or otherwise irrevocably encumbers those funds for distribution during the then current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

"Scholarship program." A program to provide tuition to eligible students to attend a school located in this Commonwealth. A scholarship program must include an application and review process for the purpose of making awards to eligible students. The award of scholarships to eligible students shall be made without limiting availability to only students of one school.

"School." A public or nonpublic prekindergarten, kindergarten,

elementary school or secondary school at which the compulsory attendance requirements of the Commonwealth may be met and that meets the applicable requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"School age." From the earliest admission age to a school's prekindergarten or kindergarten program or, when no prekindergarten or kindergarten program is provided, the school's earliest admission age for beginners, until the end of the school year the student attains 21 years of age or graduation from high school, whichever occurs first.

"Special education school." A school or program within a school that is designated specifically and exclusively for students with any of the disabilities listed in 34 CFR § 300.8 (relating to child with a disability) and meets one of the following:

(1) is licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act;

(2) is accredited by an accrediting association approved by the State Board of Education;

(3) is a school for the blind or deaf receiving Commonwealth appropriations; or

(4) is operated by or under the authority of a bona fide religious institution or by the Commonwealth or any political subdivision thereof.

"Support level." The level of support needed by an eligible student with a disability, as stated in the following matrix:

(1) Support level 1. The student is not enrolled in a special education school.

(2) Support level 2. The student is enrolled in a special education school.

"Tax credit." The educational improvement tax credit established under this article.

Section 2502-B. Qualification and application.

(a) Establishment.—In accordance with section 14 of Article III of the Constitution of Pennsylvania, an educational improvement tax credit program is established to enhance the educational opportunities available to all students in this Commonwealth.

(b) Information.—In order to qualify under this article, a scholarship organization, a prekindergarten scholarship organization or an educational improvement organization must submit information to the department that enables the department to confirm that the organization is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(c) Scholarship organizations and prekindergarten scholarship organizations.—A scholarship organization or prekindergarten scholarship organization must certify to the department that the organization is eligible to participate in the program established under this article and must agree to annually report the following information to the department by September 1 of each year:

(1) (i) The number of scholarships awarded during the immediately preceding school year to eligible prekindergarten students.

(ii) The total and average amounts of scholarships awarded during the immediately preceding school year to eligible prekindergarten students.

(iii) The number of scholarships awarded during the immediately preceding school year to eligible students in grades kindergarten through eight.

(iv) The total and average amounts of scholarships awarded during the immediately preceding school year to eligible students in grades kindergarten through eight.

(v) The number of scholarships awarded during the immediately preceding school year to eligible students in grades 9 through 12.

(vi) The total and average amounts of scholarships awarded during the immediately preceding school year to eligible students in grades 9 through 12.

(vii) Where the scholarship organization or

prekindergarten scholarship organization collects information on a county-by-county basis, the total number and the total dollar amount of scholarships awarded during the immediately preceding school year to residents of each county in which the scholarship organization or prekindergarten scholarship organization awarded scholarships.

(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than May 1 of each year, the department shall annually distribute such sample forms, together with the forms on which the reports are required to be made, to each listed scholarship organization and prekindergarten scholarship organization.

(3) The department may not require any other information to be provided by scholarship organizations or prekindergarten scholarship organizations, except as expressly authorized in this article.

(d) Educational improvement organization.—

(1) An application submitted by an educational improvement organization must describe its proposed innovative educational program or programs in a form prescribed by the department. In prescribing the form, the department shall consult with the Department of Education as necessary. The department shall review and approve or disapprove the application. In order to be eligible to participate in the program established under this article, an educational improvement organization must agree to annually report the following information to the department by September 1 of each year:

(i) The name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year.

(ii) A description of how each grant was utilized during the immediately preceding school year and a description of any demonstrated or expected innovative educational improvements.

(iii) The names of the public schools and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented.

(iv) Where the educational improvement organization collects information on a county-by-county basis, the total number and the total dollar amount of grants made during the immediately preceding school year for programs at public schools in each county in which the educational improvement organization made grants.

(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than May 1 of each year, the department shall annually distribute such sample forms, together with the forms on which the reports are required to be made, to each listed educational improvement organization.

(3) The department may not require any other information to be provided by educational improvement organizations, except as expressly authorized in this article.

(e) Notification.—The department shall notify the scholarship organization, prekindergarten scholarship organization or educational improvement organization that the organization meets the requirements of this article for that fiscal year no later than 60 days after the organization has submitted the information required under this section.

(f) Publication.—The department shall annually publish a list of each scholarship organization, prekindergarten scholarship organization or educational improvement organization qualified under this section in the Pennsylvania Bulletin. The list shall also be posted and updated as necessary on the publicly accessible Internet website of the department.
Section 2503-B. Application.

(a) Scholarship organization or prekindergarten scholarship

organization.—A business firm shall apply to the department for a tax credit. A business firm shall receive a tax credit if the scholarship organization or prekindergarten scholarship organization that receives the contribution appears on the list established under section 2502-B(f).

(b) Educational improvement organization.—A business firm must apply to the department for a tax credit. A business firm shall receive a tax credit if the department has approved the program provided by the educational improvement organization that receives the contribution.

(c) Availability of tax credits.—Tax credits shall be made available by the department on a first-come-first-served basis within the limitations established under section 2505-B(a).

(d) Contributions.—A contribution by a business firm to a scholarship organization, prekindergarten scholarship organization or educational improvement organization shall be made no later than 60 days following the approval of an application under subsection (a) or (b).

Section 2504-B. Tax credit.

(a) Scholarship or educational improvement organizations.—In accordance with section 2505-B(a), the Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, to a business firm providing proof of a contribution to a scholarship organization or educational improvement organization in the taxable year in which the contribution is made which shall not exceed 75% of the total amount contributed during the taxable year by the business firm. For the fiscal year 2011-2012, the tax credit shall not exceed \$400,000 annually per business firm for contributions made to scholarship organizations and educational improvement organizations. For the fiscal year 2012-2013, the tax credit shall not exceed \$750,000 annually per business firm for contributions made to scholarship organizations or educational improvement organizations.

(b) Additional amount.—The Department of Revenue shall grant a tax credit of up to 90% of the total amount contributed during the taxable year if the business firm provides a written commitment to provide the scholarship organization or educational improvement organization with the same amount of contribution for two consecutive tax years. The business firm must provide the written commitment under this subsection to the department at the time of application.

(c) Prekindergarten scholarship organizations.—In accordance with section 2505-B(a), the Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV of the Tax Reform Code of 1971 to a business firm providing proof of a contribution to a prekindergarten scholarship organization in the taxable year in which the contribution is made which shall be equal to 100% of the first \$10,000 contributed during the taxable year by the business firm, and which shall not exceed 90% of the remaining amount contributed during the taxable year by the business firm. For the fiscal year 2011-2012, the tax credit shall not exceed \$200,000 annually per business firm for contributions made to prekindergarten scholarship organizations. For the fiscal year 2012-2013, the tax credit shall not exceed \$250,000 annually per business firm for contributions made to prekindergarten scholarship organizations.

(d) Combination of tax credits.—A business firm may receive tax credits from the Department of Revenue in any tax year for any combination of contributions under subsection (a), (b) or (c). In no case may a business firm receive tax credits in any tax year in excess of \$750,000 for contributions under subsections (a) and (b). In no case shall a business firm receive tax credits in any tax year in excess of \$250,000 for contributions under subsection (c).

(e) Pass-through entity.—

(1) If a pass-through entity does not intend to use all approved tax credits under this section, it may elect in writing to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled for use in the taxable year in which the contribution is made or in

the taxable year immediately following the year in which the contribution is made. The election shall designate the year in which the transferred tax credits are to be used and shall be made according to procedures established by the Department of Revenue.

(2) A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the tax credit under this section for the same contribution.

(3) The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the tax credit.

(4) The shareholder, member or partner may claim the credit on a joint return, but the tax credit may not exceed the separate income of that shareholder, member or partner.

(f) Restriction on applicability of credits.—No tax credits shall be applied against any tax withheld by an employer from an employee under Article III of the Tax Reform Code of 1971.

(g) Time of application for credits.—

(1) Except as provided in paragraph (2), the department may accept applications for tax credits available during a fiscal year no earlier than July 1 of each fiscal year.

(2) The application of any business firm for tax credits available during a fiscal year as part of the second year of a two-year commitment or as a renewal of a two-year commitment that was fulfilled in the previous fiscal year may be accepted no earlier than May 15 preceding the fiscal year.

Section 2505-B. Limitations.

(a) Amount.—

(1) (i) For the fiscal year 2011-2012, the total aggregate amount of all tax credits approved shall not exceed \$100,000,000.

(ii) Not more than \$67,000,000 of the total aggregate amount of all tax credits approved shall be used to provide tax credits for contributions from business firms to scholarship organizations.

(iii) Not more than \$25,000,000 of the total aggregate amount of all tax credits approved shall be used to provide tax credits for contributions from business firms to educational improvement organizations.

(iv) Not more than \$8,000,000 of the total aggregate amount of all tax credits approved shall be used to provide tax credits for contributions from business firms to prekindergarten scholarship organizations.

(2) (i) In the fiscal year 2012-2013 and each fiscal year thereafter, the total aggregate amount of all tax credits approved shall not exceed \$200,000,000.

(ii) Not more than \$120,000,000 of the total aggregate amount of all tax credits approved shall be used to provide tax credits for contributions from business firms to scholarship organizations.

(iii) Not more than \$60,000,000 of the total aggregate amount of all tax credits approved shall be used to provide tax credits for contributions from business firms to educational improvement organizations.

(iv) Not more than \$20,000,000 of the total aggregate amount of all tax credits approved shall be used to provide tax credits for contributions from business firms to prekindergarten scholarship organizations.

(b) Activities.—No tax credit shall be approved for activities that are a part of a business firm's normal course of business.

(c) Tax liability.—

(1) Except as provided in paragraph (2), a tax credit granted for any one taxable year may not exceed the tax liability of a business firm.

(2) In the case of a credit granted to a pass-through entity which elects to transfer the credit according to section 2504-B(e), a tax credit granted for any one taxable year and transferred to a shareholder, member or partner may not exceed the tax liability of the shareholder, member or partner.

(d) Use.—A tax credit not used by the applicant in the taxable year the contribution was made or in the year designated by the shareholder, member or partner to whom the credit was transferred under section 2504-B(e) may not be carried forward or carried back and is not refundable or transferable.

(e) Nontaxable income.—A scholarship received by an eligible student or eligible prekindergarten student shall not be considered to be taxable income for the purposes of Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 2506-B. Lists.

The Department of Revenue shall provide to the General Assembly, by June 30 of each year, a list of all scholarship organizations, prekindergarten scholarship organizations and educational improvement organizations that receive contributions from business firms granted a tax credit.

Section 2507-B. Guidelines.

The department, in consultation with the Department of Education, shall develop guidelines to determine the eligibility of an innovative educational program.

Section 7. The provisions of Article XXV-B of the act are severable. If any provision of that article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of that article which can be given effect without the invalid provision or application.

Section 8. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of Article XXV-B of the act.

(2) Article XVII-F and section 2902-E(b) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are repealed.

Section 9. The following provisions of the act shall apply to charter school entities applying for or renewing a charter on or after the effective date of this section:

(1) The amendment of the definitions of "concurrent student" and "school entity" in section 1602-B of the act.

(2) The addition of the definition of "charter school entity" in section 1602-B of the act.

(3) The addition of section 1613-B(c) of the act.

(4) The addition of Article XVII-C of the act.

Section 10. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The amendment of Article X heading and section 1001 of the act.

(ii) Section 1706-C of the act.

(iii) The addition of Article XIX-G of the act.

(iv) This section.

(2) The following provisions shall take effect in 60 days:

(i) Section 1704-C of the act.

(ii) Section 1705-C of the act.

(iii) The addition of Article XXV-B of the act.

(iv) Section 7 of this act.

(v) Section 8 of this act.

(3) The following provisions shall take effect October 1, 2012:

(i) The repeal of section 1725-A of the act.

(ii) Section 1728-C of the act.

(iii) Section 9 of this act.

(4) The remainder of this act shall take effect in 90 days.

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Killion.

Mr. KILLION. Thank you, Mr. Speaker.

Amendment 7732, this amendment contains language from HB 1330, the EITC (educational improvement tax credit) bill, and HB 1348, the charter reform school bill.

The EITC bill would raise the EITC credit amount up to \$100 million in the fiscal year 2011-12 and to \$200 million, '12-'13. The charter reform bill is a bill— As you all know, we passed reform charter school here in 1997. It has been very successful. Parents now have choices, but it is not perfect. We are making some changes to the bill to bring transparency and accountability to the charter school system. It will tie the actions of board members and administrations to the Ethics Act, prohibit conflicts of interest, require them to file an annual ethics report. It will also help our charter schools by providing a statewide independent authorizer, which will also provide oversight of the schools, which, in many cases, currently is not happening. It will also provide direct pay to the charter schools.

Mr. Speaker, I believe this amendment is very needed. Pennsylvania was in the forefront of the education reform movement when we started charter schools in 1997. Currently we have 150 schools. We have over 40,000 children, children on the waiting list in Philadelphia alone, who were denied an opportunity for a better education. This amendment will go a long way to allowing families to make the choices for their children that are best for their children and to get some of our children out of schools that they are currently trapped in, underperforming schools.

Mr. Speaker, I would ask that all the members support amendment 7732. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. DERMODY. Mr. Speaker?

Mr. TURZAI. Thank you, Mr. Speaker.

With respect to—

The SPEAKER. Will the gentleman suspend.

For what purpose does the gentleman, Mr. Dermody, rise?

Mr. DERMODY. For the purpose of making a motion, Mr. Speaker.

The SPEAKER. You would not be recognized for that purpose at this moment, because I had just recognized the majority leader. He has the floor. However, when he has concluded, I will recognize you.

Mr. DERMODY. All right.

Mr. TURZAI. Thank you very much, Mr. Speaker.

With respect to amendment 7732, offered by the good gentleman from Delaware County, this is an opportunity to bring reform, positive reform, an opportunity for those children that would like to have the ability to be able to go to a charter school.

Charter schools are public schools, as you well know, and the fact of the matter is, more and more children and their families are choosing the opportunity to be able to use public charter schools. They want to make sure that they have that opportunity, because not one size fits all. So by way of example, in the city of Pittsburgh we have a variety of charter schools that

are making a significant difference in the lives of the students that attend there. That is what their parents want. It is within the public realm, and it provides opportunities that they do not see in another public school.

In addition, this bill contains the EITC, the educational improvement tax credit, expansion. We have passed that bill previously. We passed it in HB 1330 where we took it up to \$100 million, and then in the second year to \$200 million, with 190 votes.

We think this is a great opportunity to make sure that many children and their families can have choices in their life. Thank you.

GERMANENESS QUESTIONED

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

For purpose of making a motion.

The SPEAKER. The gentleman may state his motion.

Mr. DERMODY. Mr. Speaker, I move that amendment 7732 is not germane to SB 560.

Mr. Speaker, SB 560—

The SPEAKER. Will the gentleman suspend.

Let me just put us into the proper position.

The gentleman from Allegheny County, Mr. Dermody, has raised the question of whether amendment A07732 is germane. Under House rule 27, questions involving whether an amendment is germane to the subject shall be decided by the House.

On the question,

Will the House sustain the germaneness of the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Allegheny, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, SB 560 is a three-page bill with a two-line, one-sentence title that in its entirety reads, "An Act establishing the State Military College Legislative Appointment Initiative Program." That is it, Mr. Speaker: three pages and a two-line title establishing a military college appointment program.

Before us now, Mr. Speaker, is a 100-page amendment with a 12-line title that no longer creates a freestanding act establishing a military college appointment program but amends the Public School Code and amends the Tax Reform Code to, among other things, consider such disparate subjects as to provide for charter schools and to provide for EITC tax credits.

Mr. Speaker, it cannot be glossed over that this bill is currently a freestanding act and that this amendment would completely eliminate that freestanding act and turn the bill into an act amending both the Public School Code and the Tax Reform Code. So in total, Mr. Speaker, this amendment would be affecting three different freestanding acts.

Mr. Speaker, in the case of *Commonwealth v. Schulte*, the Pennsylvania Superior Court affirmed a lower court decision which held that a statute which purports to amend two different acts is void. Mr. Speaker, this amendment will not only amend two different acts, it will amend three. Pennsylvania case law

clearly provides that multiple freestanding acts are not germane to each other.

Mr. Speaker, I have to give credit where credit is due. This is a clever, though unconstitutional, procedural move. I guarantee you that no one on this side of the aisle expected a bill providing for the appointment of our brave young men and women to the State military college would be used as a political tool to move a political agenda attacking public education in Pennsylvania. Nonetheless, Mr. Speaker, we are where we are, so all I can ask for us is consistency.

Mr. Speaker, on June 21, 2011, the majority leader explained that the test that the House Republicans would use for germaneness is that "...amendments need to be tightly drawn in connection to the underlying bill...." According to the majority leader, amendments must "...have...a tighter nexus under the single subject and that reforms emanating from this chamber have looked to make sure that amendments were tighter to underlying bills."

Again, all I ask here is for consistency. If Democratic amendments are going to be subject to the above-stated test, then Republican amendments should be subject to the same test. This underlying bill deals clearly with appointments of our brave young men and women to the State military college. It has nothing to do with charter schools, it has nothing to do with tax credits, and it certainly has nothing to do with the Public School Code or the Tax Reform Code.

Mr. Speaker, on swearing-in day the majority leader stated that "I do not really care to do clever procedural maneuvers." Well, Mr. Speaker, I will let you make your own judgment on that. But please let us not drag our State military college into an unrelated political fight over charter schools and the EITC program. It is unconstitutional, Mr. Speaker, and this amendment is not germane.

Thank you, Mr. Speaker.

The SPEAKER. On the question of germaneness, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. The amendment converts a freestanding act under SB 560 establishing the State Military College Legislative Appointment Initiative Program into an amendatory act of the Public School Code of 1949 by adding an article to the Public School Code, which establishes the State Military College Legislative Appointment Initiative Program.

In addition to adding the program to the Public School Code, each amendment clarifies the review process of the committees in the program, including enumerating additional factors which may be considered by a committee in making its recommendation.

For this amendment, the factors are whether the applicant – I apologize; A7732, the amendment is whether the applicant received a scholarship under the educational improvement tax credit program. The Pennsylvania Constitution is specific on the subject of alteration of purpose, "...no bill shall be so altered or amended, on its passage through either House, as to change its original purpose." The original purpose of the bill has not been changed if the final purpose of the bill does not alter the original purpose of the bill. In its final form, the title and contents of the bill are set forth – *Stilp v. Commonwealth, Pennsylvanians Against Gambling Expansion Fund, City of Philadelphia v. Rendell* – "...the General Assembly is given full opportunity to amend and even expand a bill," the court said, "and not run afoul of the constitutional prohibition on an alteration or amendment that changes its original purpose." However, the

General Assembly may not delete the original language of the bill as it moves through the enactment process. That is not done here. The purpose of SB 560 is to establish the State Military College Legislative Appointment Initiative Program.

Unlike *Marcavage*, each amendment continues to establish this program in the Public School Code. In accordance with case law, each amendment amends the State Military College Legislative Appointment Initiative Program to establish additional factors which may be considered in determining who receives the recommendation under the program. These additional factors necessitated additional amendment of the Public School Code by either amending current language of the Public School Code or expanding the Public School Code by adding chapters establishing additional programs. Both actions are permitted by court decision. Consequently, amendment 7732 does not so change the original purpose of the bill that, if adopted, it would make the amended bill unconstitutional.

In particular, as I said, it maintains the original language and adds additional sections, but specifically, it cross-references "The committee shall review each application to determine which student is best qualified to receive a recommendation for appointment. In making its determination" for the academy "the committee may consider whether the student was an eligible student who received a scholarship under a scholarship program established under the Educational Improvement Tax Credit under Article XXV-B." Thus, with respect to the appointment, it specifically references "Educational Improvement Tax Credit," and you need additional language to set forth about the educational improvement tax credit within the Public School Code.

It is clear that it is technically correct and constitutional, and that significant thought has been placed into the drafting of this amendment to make sure that it is consistent with the underlying bill.

Please vote that the amendment is germane.

The SPEAKER. On the question of germaneness, the gentleman from Cambria County, Mr. Barbin, is recognized.

Mr. BARBIN. Thank you, Mr. Speaker.

I have listened to the arguments for germaneness for the last two bills. Somehow the bill that deals with the safety at the wellhead for a GPS system is not germane to the safety for injection wells under emergency regulations.

Now the same argument is twisted back to create a situation that says, in Pennsylvania we do not have to read bills three times. We only have to read them twice, because that is what happened today. To make sure that there was no timely amendment, this bill on military colleges has been amended to create two new subject matters, one that we passed overwhelmingly for the EITC, and the other to decide, in the middle of a recession when we have no money, that we are going to allow some board to create another 150-some public schools. And that is what happens when you take – you do not let an amendment be filed, and what you do instead is to say, well, this military college, it is close enough. It is the same thing as reading it on first consideration. So we will just go to second today and we will just add these things, and we will say, I cannot understand why you would say this is not germane.

Now, the problem with all of this is every time we bend the rule, 150 times on germaneness, we are making democracy just a little bit weaker, because every time we do it, we are getting a little farther away from where we were 300 years ago, because in 1701 Penn said that we are not going to do this kind of

garbage. We are going to introduce a bill. There are going to be 10 days. The public is going to see it, we are going to amend it, and then there is going to be the House and the Senate; they are going to vote on it, and if it is good, I am going to sign it. Well, now we do not even get to see it twice because somebody says it is clear that it is constitutional. Well, it is clearly unconstitutional.

And the thing that is really—

The SPEAKER. The gentleman will suspend. The gentleman will suspend.

Mr. BARBIN. Well, I will try to stay on point.

The SPEAKER. The question is germaneness.

Mr. BARBIN. Well, germaneness—

The SPEAKER. Okay.

Mr. BARBIN. The bottom line here is we have got three subjects now on a bill, and we have never had the opportunity for the public to comment. And the majority, because they have the will to do it, is to say, you cannot amend this bill, and that is what germaneness is doing here. Now, if you keep allowing this to happen, then there is no reason for any of us to show up anymore, because the leader will be able to say, let us just have this on third; no amendments, no discussion. Let us just vote on it. This is the most substantial issue we have to deal with with education and you are telling the public they cannot amend the bill. That is ridiculous.

I ask that we follow the minority leader's lead and we deal with this on the same basis that we dealt with the Marcellus Shale bill. This has to be consistent, otherwise we are going to be creating hundreds of new public schools.

The SPEAKER. On the question of germaneness, those who believe the amendment is germane will vote "aye"; those who believe the amendment is not germane will vote "no."

On the question recurring,

Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

YEAS—107

Adolph	Gabler	Major	Reese
Aument	Geist	Maloney	Reichley
Baker	Gillen	Marshall	Roae
Barrar	Gillespie	Marsico	Rock
Bear	Gingrich	Masser	Ross
Benninghoff	Godshall	Metcalfe	Saccone
Bloom	Grell	Metzgar	Saylor
Boback	Grove	Miccarelli	Scavello
Brown, R.	Hackett	Micozzie	Schroder
Causar	Hahn	Millard	Sonney
Christiana	Harhart	Miller	Stephens
Clymer	Harper	Milne	Stern
Cox	Harris	Moul	Stevenson
Creighton	Heffley	Murt	Swanger
Culver	Helm	Mustio	Tallman
Cutler	Hennessey	O'Neill	Taylor
Day	Hess	Oberlander	Tobash
Delozier	Hickernell	Payne	Toepel
Denlinger	Hutchinson	Peifer	Toohil
DiGirolamo	Kampf	Perry	Truitt
Dunbar	Kauffman	Petri	Turzai
Ellis	Keller, F.	Pickett	Vereb
Emrick	Killion	Pyle	Vulakovich

Evankovich	Knowles	Quigley	Watson
Evans, D.	Krieger	Quinn	
Everett	Lawrence	Rapp	Smith, S.,
Farry	Maier	Reed	Speaker
Fleck			

NAYS—88

Barbin	DeLissio	Kavulich	Preston
Bishop	DeLuca	Keller, W.	Ravenstahl
Boyle, B.	DePasquale	Kirkland	Readshaw
Boyle, K.	Dermody	Kortz	Roebuck
Bradford	DeWeese	Kotik	Sabatina
Brennan	Donatucci	Kula	Sainato
Briggs	Fabrizio	Longietti	Samuelson
Brown, V.	Frankel	Mahoney	Santarsiero
Brownlee	Freeman	Mann	Santoni
Burns	Galloway	Markosek	Shapiro
Buxton	George	Matzie	Smith, K.
Caltagirone	Gerber	McGeehan	Smith, M.
Carroll	Gergely	Mirabito	Stackab
Cohen	Gibbons	Mullery	Sturla
Conklin	Goodman	Mundy	Thomas
Costa, P.	Haluska	Murphy	Vitali
Cruz	Hanna	Myers	Wagner
Curry	Harhai	Neuman	Waters
Daley	Harkins	O'Brien, M.	Wheatley
Davidson	Hornaman	Parker	White
Davis	Johnson	Pashinski	Williams
Deasy	Josephs	Petrarca	Youngblood

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was declared germane.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Mercer County, Mr. Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman from Delaware County, Mr. Killion, indicates he will stand for interrogation. You may proceed.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I notice that there is a fiscal note that has been issued to the amendment. However, I did not see any analysis in that fiscal note of the cost of the new charter school language, and I wanted to ask, what is the cost of the new charter school language?

Mr. KILLION. I am reading from line 46, page 41, of the bill, "Limited use of certain funds.—For the 2011-2012 fiscal year, the commission and department may utilize undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to the extent necessary to carry out the provisions of this article

and based upon a budget submitted and approved by the Governor's Budget...." In other words, there are funds available currently to cover the cost of the commission.

Mr. LONGIETTI. Do we know what the cost is?

Mr. KILLION. Nominal.

Mr. LONGIETTI. Nominal. Okay.

Question. I notice on page 39 of the amendment that the State Commission on Charter Schools can hire an executive director and that "The executive director shall be paid compensation...." Will that be nominal compensation?

Mr. KILLION. Eventually it will be funded by fees that will be set by the funding committee, which will be established as part of the legislation.

Mr. LONGIETTI. Do we know what the compensation is? Will it be nominal?

Mr. KILLION. That will be established by the commission when the person is hired.

Mr. LONGIETTI. So, Mr. Speaker, does that mean if the commission decides that it is \$100,000, that the compensation can be \$100,000?

Mr. KILLION. That would be up to the commission that is appointed and they would look at that, and then the funding would come from the fees going forward.

Mr. LONGIETTI. So if the commission decides that it would be \$300,000, could it be \$300,000 under the amendment?

Mr. KILLION. It is not any different than any other department in this building or any of the buildings here in State government. Salaries are set by people who set them based upon competitive market rates. It is done all the time. This commission will be appointed by us and they will do the job as they see fit, and that is no different than how we do anything else here in State government.

Mr. LONGIETTI. Mr. Speaker, is there any language in the amendment that states that the salary of the executive director shall be based upon market rates?

Mr. KILLION. That is standard operating procedure. When you hire someone, you negotiate a salary. That is how it is done. It is done here in government. It is done in the private sector. That is how you do it.

Mr. LONGIETTI. I take it that there is no language in the amendment that states that they have to follow standard operating procedure or market rates. Is that your understanding?

Mr. KILLION. Can you repeat that?

Mr. LONGIETTI. I take it that there is no language in the amendment that states that they have to follow, the commission has to follow standard operating procedure and pay market rates. Is that your understanding?

Mr. KILLION. It is how it is done all the time. I do not think it— All our boards and commissions set salaries. The PHEAA (Pennsylvania Higher Education Assistance Agency) board sets the salary for its executive director. I do not believe in their enabling legislation – I would have to look, but I would be very surprised if their enabling legislation has language that says, "please follow standard operating business procedures in deciding on a salary for your executive director."

Mr. LONGIETTI. I am not sure the PHEAA board is a good example, but I will move on.

Under the legislation on page 40, it is my understanding that the executive director may also employ personnel and contract for consulting services. Are there any limits to how many folks can be hired by the executive director under the legislation?

Mr. KILLION. That is one of the intents of the bill. Currently as the statewide authorizer, they are also in charge of watching these schools, and our intent is that they will hire professional staff because we want to close down bad charter schools. Under the current system, the charter schools are not being watched as closely as they should be by the school districts. This will allow us to have a professional staff looking at these charter schools, and if we have a bad one, they can go in and close it down to make sure those children are protected and are receiving a good education. So yes, they are going to need to hire professional staff.

Mr. LONGIETTI. Is there any limit in the legislation on how many professional staff that they can hire?

Mr. KILLION. There is no limit. I do not believe there is any limit in the legislation. But again, we are going back to all our boards and agencies. We do not put limits on how many people they can hire. If we as a body feel that there is a problem, we can go back and correct that, but that is up to the boards and commissions, just like any other board and commission here in the Commonwealth.

Mr. LONGIETTI. I also note on page 40 that the commission can contract for consulting services. Is there any dollar limit on how much a contract can be for consulting services?

Mr. KILLION. Same answer.

Mr. LONGIETTI. So there is no limit?

Mr. KILLION. Same answer.

Mr. LONGIETTI. Okay. I notice, does the legislation state where the State Commission on Charter Schools has meetings? Under the amendment, I believe on page 39, does the legislation state where the State Commission on Charter Schools must hold its meetings?

Mr. KILLION. The Department of Education in the legislation, the Department of Education is to make facilities available, so that will be decided by the Department of Education, the Secretary.

Mr. LONGIETTI. So correct me if I am wrong, the Department of Education is located here in Harrisburg. That is where their facilities are. So under the legislation, if I hear you correctly, they are making their facilities available. Those meetings would be somewhere in Harrisburg?

Mr. KILLION. I would assume that.

Mr. LONGIETTI. When a charter application is submitted to the State Commission on Charter Schools and a public hearing is required, does the legislation specify where that public hearing is to be held?

Mr. KILLION. Again, that would be up to the commission. I would assume the hearings would be here in Harrisburg, but they could change that.

Mr. LONGIETTI. So those hearings could likely be in Harrisburg as well, those public hearings.

I notice, I believe it is on page 52 of the amendment, that when a public hearing is held on a charter application by the commission, that it only requires 48 hours of advance notice. Is there a reason or—

Mr. KILLION. Mr. Speaker? Mr. Speaker? Could we have some order. I am having difficulty hearing the interrogator.

The SPEAKER. The House will please come to order. If the members could kindly hold their conversations down, especially during interrogation, it is difficult to hear. If you need to have a conversation, kindly take it to the rear of the House. Thank you. I thank the members.

The interrogation may proceed.

Mr. LONGIETTI. Thank you, Mr. Speaker.

I was just asking, why only 48 hours' advance notice on the public hearings?

Mr. KILLION. I think you need to understand that the hearing is for the applicant, the applicant before the commission. This is someone who is seeking to get an approval of a charter school either from the school district, but in this case from the statewide commission. So they have requested it; they want to come. They want to come and make their case as to why they should be granted a charter. So it is like anything else. If it is something I want, 48 hours' notice should be sufficient. They know that they are going to be asked to come to a hearing when they put in their application.

Mr. LONGIETTI. Now, for an appeal to the Charter School Appeal Board, under current law if a charter school application is denied and there is an appeal filed to the Charter School Appeal Board, there is a requirement that the applicant for the charter school must obtain the lesser of 2 percent, signatures from 2 percent of the residents over 18 or 1,000 signatures, whichever is less. In your amendment, is that signature requirement still in effect?

Mr. KILLION. No. That requirement has been removed.

What you need to understand is we are trying to remove impediments to creating charter schools that are not necessary. As I said in my opening comments, in Philadelphia alone we have 40,000 students, that is probably close to 30,000 or more families looking for an option for their children, and we are trying to remove impediments that are in the way currently that simply do not need to be there, because now we will have a statewide commission that will be watching the charter schools, making sure everything is transparent and they are being run correctly.

Mr. LONGIETTI. So I take it from what you are saying, in your view, when a charter application has been denied, that it is not important to show any level of public support in the form of signatures of residents to effectuate an appeal?

Mr. KILLION. That is all done through the application process. The application is very extensive. They have to show that there is support in the community for the charter school. If they do not establish support for the charter school, well, one, they are not going to get any students anyway, but two, the commission will not grant them a charter. They have to in the process prove there is a reason for that charter to exist – there is a need, there is a desire, and they have the ability to meet that desire for those parents and those children. That is all part of the extensive application process.

Mr. LONGIETTI. And hence my question, because my question presumes that the commission has denied, has denied the charter school application and now the applicant is appealing to the Charter School Appeal Board. And perhaps one of the reasons it was denied was a lack of public support. So in your view, there is no need to effectuate that appeal to show some level of public support via signatures of residents?

Mr. KILLION. If I hear you correctly, you are saying they were denied because they did not have public support. They are appealing. It seems pretty clear to me if they do not at that point show public support, they are going to get denied again in the appeal.

Mr. LONGIETTI. The question I was asking, in our current law, in order for them to even effectuate an appeal and take up the time and the resources of the Commonwealth, they would

have to have signatures of the lesser of 2 percent of the residents or 1,000 people. I take it for whatever reason that you do not think that that is necessary to show that level of public support to effectuate an appeal. Is that correct?

Mr. KILLION. There are lots of ways to show public support. Forcing them to go out and get signatures of 2 percent is one of the impediments we are trying to remove.

Mr. LONGIETTI. Thank you.

Is there any language giving a local school board standing in an appeal to the Charter School Appeal Board or to the court if the State Commission on Charter Schools is the authorizer?

Mr. KILLION. Is this denied at the school district level or the declination was at the new commission level?

Mr. LONGIETTI. In other words, what happened was the State Commission on Charter Schools received the application, they denied it, and there is now an appeal that has been taken to the Charter School Appeal Board or a further appeal to the courts. And the question is whether or not the local school district has any standing in regard to that appeal. Are they able to participate in those proceedings?

Mr. KILLION. The school districts would be able to provide testimony at the hearing.

Mr. LONGIETTI. Okay. Could you point to where in the amendment that appears that they are able to participate in those proceedings?

Mr. KILLION. It is current law. The amendment does not change it.

Mr. LONGIETTI. Well, the amendment does change the fact that currently the only authorizer is the local school district. And so the local school district, when they are the authorizer and they deny it, naturally they do have standing in the appeal because they are a party to it. But under your amendment, as I understand it, if it goes to the State Commission on Charter Schools, the local school board is no longer a party to the action. And so that is why I am asking if there is anything in your amendment that gives them standing to appear in that appeal?

Mr. KILLION. That is part of the intent of the legislation. If I owned a Burger King chain, Burger King store, I would love, I would absolutely love to have the ability to decide whether or not Wendy's or McDonald's or Chick-fil-A could open across the street. That is what we are trying to get away from. We are trying to get away from that whole system.

They could still go to the school board if they choose to, but if they feel they have a charter school that is needed in the community, which they will have to prove to the commission, then they have the right to come directly to Harrisburg to that commission and make their case as to why that charter should be there.

Mr. LONGIETTI. It sounds, if I am hearing your answer correctly, it sounds like in that case the local school district would not have standing under your amendment to appear and participate in the appeal.

Mr. KILLION. Could you repeat that question?

Mr. LONGIETTI. It sounded like from your answer, if I heard you correctly and understood you correctly, that under your amendment there would not be standing for a local school district to participate in an appeal to the Charter School Appeal Board or to the court where the authorizer is the State Commission on Charter Schools.

Mr. KILLION. That is correct.

Mr. LONGIETTI. Okay. Is there anything in your amendment that ensures that a local school district receive a copy of the proposed charter school application, which is submitted to the State commission before the public hearing happens?

Mr. KILLION. No.

Mr. LONGIETTI. I notice there were some changes in your amendment. Once the charter school application is submitted, there are criteria, mandatory criteria that it has been evaluated on in current law. And I notice, I think it is on page 53 of your amendment, that it is no longer required to evaluate that application on the actual items that are supposed to be in the application. There is a laundry list of items that have to be in the application, but if I read page 53 correctly, that will no longer be a mandatory basis of evaluating the charter school application. Why was that taken out?

Mr. KILLION. Could you repeat that question, please?

Mr. LONGIETTI. Yes. On page 53 of your amendment, you will notice that when the authorizer receives a charter school application, there are now only two items that are required for them to evaluate that application on. There used to be four; in the current law there are four. One of those items is the laundry list of things that have to be in the application. That is no longer a mandatory basis or criteria to evaluate the application on, and I am wondering why that was removed. Why did you feel it important to remove that?

Mr. KILLION. The application to apply to the commission has been standardized and it is much lengthier, so those questions would be answered in that application. All that information will be provided.

Mr. LONGIETTI. But it is no longer a basis to actually review the application on the criteria. It is no longer mandatory criteria when you review the application on whether to grant it or not, and I am wondering why we would want to remove that? Why you decided to do that?

Mr. KILLION. It says, "...including, but not limited...." All that additional information is in the application. It is available to the commission to make their decision whether or not to grant the charter.

Mr. LONGIETTI. The other criteria that I noticed was eliminated is the criteria that the application will be evaluated on the extent to which the charter school may serve as a model for other public schools. That is no longer a mandatory criteria in your amendment, and I am wondering why you chose to eliminate that as a mandatory criteria.

Mr. KILLION. Once again, that is in the application. It is an item that the commission can take a look at when they are deciding whether or not to grant the charter.

Mr. LONGIETTI. Mr. Speaker, if I could be recognized on the amendment.

The SPEAKER. The gentleman is in order on the amendment.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, obviously we need to reform charter and cyber charter schools. I do not think anybody has a disagreement with that. I think there are parts of this amendment that make reforms that are important, but unfortunately, I have very deep concerns about the amendment that is being offered.

First of all, we know that there is going to be a cost to this, a significant cost. This is yet another Harrisburg-based commission that is being added. Right now when a charter school application comes in, it is the local school board that is

supposed to evaluate that. We are going to potentially dispense with that and we are going to move it to Harrisburg. We are going to create a commission, and that commission is going to hire an executive director. We do not know what the salary is. The salary could be \$100,000, \$300,000; it could be \$1 million for that. It was compared to PHEAA; we know the problems that PHEAA had with how they spent their money in cases. They are going to hire staff. We do not know how many staff there are going to be. There is no limit to the number of staff involved or the compensation involved there. They are going to potentially contract for services, contract with outside companies. Once again, there is going to be a cost to that. We do not know what the cost is going to be. There is an unlimited cost associated with it and an unlimited amount of consulting services that could be contracted for.

Also troubling is we know that the charter school, the State Commission on Charter Schools will have meetings, and if I heard the gentleman correctly, those meetings are likely going to happen in Harrisburg. I know my district is about 250 miles from Harrisburg. It is a 4-hour drive, yet that is going to be where the meetings are going to be held.

Not only that, more importantly, one of the requirements of the law is that there is a public hearing on a charter application. Now, who more important do we want to hear from on that charter application than parents and residents of the school district that is affected? If a charter school wants to come into the school district, parents, students, taxpayers of that area ought to be able to talk at the public hearing on it. But when you have a public hearing that is likely going to be held in Harrisburg, which is what we heard; in my district they have got to drive 250 miles to get there, and worse yet, the most notice that they could have is 48 hours' notice. That is not a whole lot of time for them to come to Harrisburg and to voice their concerns. I do not think that that is the direction that we should be moving in.

We are all supposed to be about local control when it comes to schools – these are public schools, after all – and here we are, we are going to centralize it; we are going to put it in Harrisburg. It is going to be people that are far removed from our communities, and we are going to make it really, really hard for the people from our communities to let their voices be heard through public comment at the hearing. I think that is a bad approach.

We heard discussion on interrogation about the requirement to get some signatures of local residents when you appeal a denied charter school. So the application has been denied. It has been denied because of a lack of public support, because that is a basis to deny it, but now we are going to waste resources and time and money when the applicant does not have public support. We are not going to require them any longer to get any signatures of any local people to say that they support appealing this denial of a charter school. I think that is a bad idea.

The other problem that we have is, the charter schools that have worked, the ones that have worked best have been done in conjunction with local school districts. Local school districts see a need, see a need for a charter school and they work closely and in conjunction with a charter application, but with this language we are going to cut out the local school board, and we are going to even cut them out of the appeal process. We are going to say that they no longer have standing in an appeal of a charter application. They cannot participate. I think that is a bad idea.

There is nothing in this bill that requires a local school district to even receive a charter application that has been submitted, so they do not even have an opportunity to review it so that they can make intelligent public comments. I thought we were trying to work these schools together, that they were all part of the fabric of our educational system. Instead, we are going to totally cut out the public school district. They are not going to know what is in the charter application; they are not going to be involved.

And probably the most troubling part of it is we are now going to evaluate the charter application, but we are no longer going to require that they demonstrate that they are going to be a model to the traditional public school. I thought when the charter legislation was adopted back in 1997, I thought the entire idea, or a good part of the idea, was to allow them to innovate and then to serve as a model, a model to help us change traditional public schools. We seem to be going completely away from that.

I have been frustrated here in Harrisburg that we have not looked at what works in charter schools and found a way to replicate those in our traditional public schools. Perhaps we need to free up our traditional public schools of some of the mandatory statutory requirements that they have, because the charter school is free from some of those requirements and has been able to innovate.

We are no longer talking about a model. What we are talking about is a duplicative school. I know in my area some folks have talked about consolidation. I know that that is a touchy subject, but here we are certainly going in the opposite direction. We are just going to build more buildings, more administrators, more overhead costs. Let us duplicate, duplicate, duplicate. We do not want a model anymore on how to change our public schools and make them stronger. We just want more, more, more, more, and the taxpayers are going to pay more, more, more, more for more schools and it is not going to advance our educational system.

So, Mr. Speaker, it is for all these reasons that although I think the gentleman is well-intentioned in his amendment, and although there are parts of his amendment that may strengthen oversight and ethics in cyber charter schools, unfortunately, the amendment has serious flaws. It costs lots of money. It is going to cut out public schools. It is going to centralized things in Harrisburg. It is going to make it hard for citizens to offer public comment, and it is no longer going to serve as a model. It is just going to be a duplicative, costly additional system. And it is for all these reasons that I urge my colleagues to vote "no" on this amendment. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, will the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, before I ask a couple questions, I need you to clarify something for me. I think when you were talking about the amendment, you said something about Philadelphia and 30,000 kids. Would you clarify that for me?

Mr. KILLION. It is our understanding that there are in excess of 30,000 children in the city of Philadelphia awaiting an opportunity to attend a charter school. They are on waiting lists.

Mr. THOMAS. Mr. Speaker, where did you get that information?

Mr. KILLION. The Pennsylvania Department of Education.

Mr. THOMAS. Pardon me?

Mr. KILLION. The Education Department.

Mr. THOMAS. The Pennsylvania Department of Education? Mr. Speaker, I—

Mr. KILLION. I have also heard Senator Williams use the same exact figure in speeches.

Mr. THOMAS. In the Senate, not in the House.

Mr. KILLION. Well, I do not doubt him.

Mr. THOMAS. The only reason I say that is because I am one of the cosponsors and coframers of the Charter School Law, and I have kind of stayed very kind of close to charter schools in Philadelphia County and in touch with the Pennsylvania Department of Education. I have never heard that there are 30,000 kids in Philadelphia County waiting to go into charter schools. I have never heard that. And so if the Pennsylvania Department of Education has provided you with that information, I need you to share it with me.

Mr. KILLION. We will get it for you.

Mr. THOMAS. Thank you.

Mr. Speaker, going back to when we framed the Charter School Law, there was some hesitancy on both sides about immediately signing off on the Charter School Law bill, but one of the things that really gave it bipartisan support – and this is getting to my question – and that is the need for these charter schools to have continuity and uniformity with local school districts. In fact, we required that anybody that desires to organize a charter school, they needed to connect with their local school district so that we would not have all of these different systems going on in local municipalities.

And so my question is, what has happened from the time that we organized the Charter School Law and now that requires us to create an independent charter school system?

Mr. KILLION. That seemed to be a two-part question.

Mr. THOMAS. Well, the first part is, why do we need another bureaucracy today?

Mr. KILLION. It is not another bureaucracy. Right now a charter school has to go to the school district. Now they will be able to go to the State. That relieves that burden on the local school district. There is still one entity deciding this decision, whether or not the charter can operate, and it goes back to my point that I made previously that there is a conflict of interest. There could be a conflict of interest between the school district, because they are basically allowing competition to open up in their neighborhood.

Mr. THOMAS. I did not understand that, but I heard it.

Mr. Speaker, I just received a letter from the Governor, and I know a lot of other people received the same letter, acknowledging that we have too many boards and commissions going on in the Commonwealth right now. And so, one, have you received a copy of that letter from the Governor?

Mr. KILLION. I have not seen it yet. I have not been in my office.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, if you received a letter like that, would that change your opinion about what you are proposing in this amendment?

Mr. KILLION. Absolutely not. The Governor is supporting this bill.

Mr. THOMAS. But the issue is not whether he supports it. The question runs to, we have all of these boards and commissions all over the place, and one of the things that he has acknowledged that is draining the Commonwealth is all of these boards and commissions. And so my question is, what is it that is going on today that requires that we create another commission?

Mr. KILLION. There are good boards and commissions. Some are needed; some are not needed. It is believed at this time, and I firmly believe at this time, given what is going on in education in America, especially here in Pennsylvania, where we have schools that have been failing our children not for months, not for weeks, not for years, but for decades, and these families are desperate for other options. This is the way to go.

Mr. THOMAS. Mr. Speaker, my next question is, the last information that I received, and I do not have it right in front of me tonight, but it appears as though that charter schools as a whole are not performing better than the existing public school systems. And so my question is, what is it in what you are proposing that this additional commission is going to improve the outcome of performance of existing charter schools?

Mr. KILLION. Well, I believe there is some disagreement there. The Pew Charitable Trusts study found that in Philadelphia, Philadelphians that have their children in charter schools, 60 percent are in favor and only 40 percent are in favor of the public school system. So I believe there is some disagreement there.

Mr. THOMAS. Now, wait a minute. Mr. Speaker, I come from Philadelphia County. Please give me some real facts and/or evidence, because what you are saying to me is foreign to what I know about my county and where I live and work.

Mr. KILLION. I will give you a simple fact: Parents and children can vote with their feet, and they are doing it right now. They are leaving our underperforming public schools and going to charter schools. If the public schools are so wonderful, they can go back. What we are trying to provide here are opportunities for families to make sure their children have a bright future through education and that they go to a school where they feel safe and comfortable and they can learn in a good environment. The public schools could do the same thing. Many of them already do that. We are providing choice.

Mr. THOMAS. Mr. Speaker, how does that line up with, the Philadelphia School District just undertook a very substantive study of existing public schools in Philadelphia County. The school district now acknowledges that the majority of school buildings in Philadelphia County have been victims of benign neglect, and therefore some of them are 30 and 40 years old and some of them might be older than 40 years. And so, Mr. Speaker, if that is in fact the case and it is driving parents to take their kids out of those existing public school buildings, where are they going to go? If we do not have money to help existing school buildings, what are we going to do with these new charter schools that we are proposing?

So my question is, Mr. Speaker, when the charter school bill was signed into law, I supported, promoted the establishment of the first charter school in Philadelphia County, the Alliance for Progress Charter School in north Philadelphia. Mr. Speaker, a number of other people and I every year have to go scrap and try to get some money to just keep this manufactured structure up and running. There is no Commonwealth support to the

sustainability of these existing charter schools. And so my question is, what is it in your amendment that is going to provide an environment that is ultimately going to lead to improving the outcome of education for children?

Mr. KILLION. As part of the application process, the charter school is going to have to establish that they will have adequate facilities, and they get the funding that follows the student, just as they currently do under charter schools. It is a process that running a charter school is a business and making sure the revenue is coming in and enough to support the building and everything that goes on inside that building. That is up to the board of directors.

Mr. THOMAS. Mr. Speaker, the Gates Foundation has just concluded that professional development is necessary for improving the education of children in 2011. What is it about this amendment that is going to improve the outcome of teachers in the Commonwealth of Pennsylvania? And when I say that – and I guess because I come from Philadelphia County, we always want to talk about Philadelphia County – but there are kids in Northumberland County that face the same challenges that they face in Philadelphia County. I have been in the Northumberland County courts dealing with the issue of quality education in Northumberland County. So my question is, without the speech, what is it about this amendment that is going to change, can improve the outcome of teachers, provide technology, provide books and materials, and provide a physical facility that is going to lend itself to the kind of safety and security that kids need?

Mr. KILLION. It goes back to the original charter bill. If I have a charter school that does not have good quality teachers, that does not have the right technology and does not have a nice building, no one is going to come to it, and I am going to be out of business. This is about choice for the parents. The application process, that is what they are going to have to establish to the commission or even to the school district if they go that way, and that is exactly what we are attempting to do here.

What you are asking us to do is exactly what we are doing. We are providing an opportunity to innovate, to do different things at these schools, and they are going to have to run them like businesses and they are going to have to deliver a good product, because unlike the public schools where many of our children are currently trapped, they cannot vote with their feet. If they do not deliver a good product in these charter schools, they can pull their kids out and send them back to the public school or another charter school. It is very simple.

Mr. THOMAS. Mr. Speaker, what is currently not in place that cannot deal with what you just suggested or what I suggested? What is currently not in law within the Pennsylvania Department of Education that can lend itself towards these basic components of improving education for all children?

Mr. KILLION. That is the purpose of what we are attempting to do here. We are attempting to provide alternatives, good quality schools. The authorizer is also the one that is going to be checking on the schools, the State authorizer, to make sure they provide accountability, transparency. We are providing more options for students and parents than they currently have now.

Mr. THOMAS. And, Mr. Speaker, my last two questions. One, you mentioned that the cost of this commission is minimal or de minimis, something to that effect. I think it was minimal. Do you think that we need to have some idea of what the costs are going to be associated with establishing this commission

and put us in a position to really do something about the charge that we are giving it statutorily?

Mr. KILLION. As was stated earlier, there are funds available currently to fund the first year. After that the commission will establish what it will cost. But remember, at the same time, at the same time every charter that makes the decision not to go to their local school district and come to the statewide commission is saving that school district all that time and energy of researching that application, having hearings, deciding whether— It is a wash. We will be saving money over here with the money we spend over there.

Mr. THOMAS. So, Mr. Speaker, you are saying that there is money currently in the Pennsylvania Department of Education?

Mr. KILLION. That is what they are telling us.

Mr. THOMAS. But you do not have anything in writing?

Mr. KILLION. It is actually in the bill. It mentions unencumbered funds that can be used for the first year.

Mr. THOMAS. And we have something in writing?

Mr. KILLION. It is in the amendment.

Mr. THOMAS. But there is not a number in there; there is no number in there.

Mr. KILLION. Well, they have not been formed. They do not know, they do not have the cost yet. They are telling us they are fine. They believe the first year they have the funds to do it.

Mr. THOMAS. Well, Mr. Speaker, if that is the case, why has Philadelphia had to lay off almost 3,000 people and accept major cuts in '11-'12 that were there in '10 and '11? Where are these unencumbered dollars?

Mr. KILLION. Well, Mr. Speaker, with all due respect, with all due respect, we are talking about an amendment dealing with cyber and charter schools. We are not talking about last year's budget and funding the Philadelphia School District. That is a totally different subject, and with all due respect, that is not something I am prepared to answer here.

Mr. THOMAS. I agree with you, sir, but I am just trying to find out how much is it going – how much are we going to spend in order to establish this commission and do all that you envision it will do once it is established? That is all I am trying to—

Mr. KILLION. And I believe I have answered that question.

Mr. THOMAS. You are saying your answer is there are unencumbered dollars that are currently available that can be used to do this?

Mr. KILLION. Correct.

Mr. THOMAS. Okay.

Mr. Speaker, I have concluded my interrogation, and I thank you. And, Mr. Speaker, I would like to speak on the amendment.

The SPEAKER. The gentleman is in order, on the amendment.

Mr. THOMAS. Mr. Speaker, I think the maker of the amendment is doing what he thinks is in the best interests of charter school families. But, Mr. Speaker, I can stand here this evening and say to you, we do not – and read my lips – we do not have 30,000 kids in Philadelphia County that are waiting to go into charter schools. That is number one.

Number two, I am not aware of anything from the Secretary of the Pennsylvania Department of Education or the Governor's Office which identifies a pot of unencumbered money that can be used to establish another commission and carry out the dreams of the maker of the amendment.

Thirdly, Mr. Speaker, yes, there needs to be change in the way that charter schools are operating, especially since charter schools were originally designed to, one, reduce overpopulation; two, give parents greater decisionmaking in their children's education; number three, bring some new ideas to the whole process of education; and last but not least, to try and do it with a lesser amount of money than was being expended with existing public schools.

In fact, we said that charter schools are only required to have 75 percent of its teachers certified in a particular area. So that under current law, charter schools can hire 25 percent of its staff without being certified. So if education, if teacher professionalism is needed and we have created this system that allows for at least a quarter of the staff to not be certified, then, Mr. Speaker, I do not know how this amendment will answer those questions and resolve those questions.

Secondly, Mr. Speaker, with the exception of the new members of this term, everybody else in a bipartisan way, we undertook a costing-out study to kind of figure out what we needed to do to equalize the availability of resources for existing public schools. That costing-out study came back with a list of recommendations. One recommendation was that we did not need to create more boards or commissions; we did not need to empower some new people, that what we needed to do was to spend about \$400 million on bringing the Commonwealth of Pennsylvania schools into the 21st century, because we had neglected for so many years of providing the kinds of resources that young people need.

And I get upset sometimes when people talk about Philadelphia and what is happening in Philadelphia. Curt Thomas went to these same public schools and graduated from these public schools, and yet graduated at the top of my class, Temple undergrad school, graduate school, and I graduated at the top of my class, my law school class, in Washington, DC – from these under-, non-performing schools that you are talking about.

Edison High School: I had to fight for 39 days to get in and out of the building, because it was a high school that had two lions on the front, and you could not get in the building unless you fought and beat up everybody that was standing in front of that. In my last year, when I took calculus, trigonometry, and geometry, I had to come out of the second-floor window of the school every day because of problems of safety and security. But, Mr. Speaker, I did it. I did it and I did it well, because the location of the school, it was not because there was another board or commission; it was not because there was another somebody else that made some decisions. That did not change, that did not provide me with the tools that I needed to graduate at the top of my class from law school in Washington, DC. And in my last 2 years I chaired the law school association for two law schools, not just one, but two law schools.

So, Mr. Speaker, we know what works with children. We know what will work to provide parents and communities with the right kinds of resources. And in closing I can say to you, another board or commission is not going to change the outcome of charter schools or public schools.

Number two, another effort to redirect a limited pot of dollars for public education to all of these Einstein-related laboratory-type experiments. We will try another experiment that is going to defer providing the kind of resources that children need.

Thirdly, Mr. Speaker, another board or commission transferring power from local communities to Harrisburg is not going to change the outcome of young people that are trapped in Northumberland County, Erie County, York County, Philadelphia County, or Dauphin County. It is not going to change the outcome, and we need to stop acting as though we are on drugs about what works.

The last 8 years, the proficiency of young people nationwide went up more than any other State in the United States, and the reason proficiency was increased during the last 8 years was primarily because we made an investment. We made a realistic investment and established some systems of accountability to make sure that money went to children and not to people's dreams. When you make the investment, you will get the right kind of return.

My mama raised eight of us, eight of us, and we did all right, because she gave us the tools that we needed in order to become productive members of the larger community, and it was not in calling for another board or another commission or spending money in the wrong way. So, Mr. Speaker, brothers and sisters, friends and foe, colleagues: Do the right thing tonight. Do the right thing tonight. Reject out of hand any and all amendments and/or proposals that do not run to finalizing what really happens to kids in schools. Let us spend money where we know it works and get away from what I call these Einstein-related experiments.

You know, Einstein was a great scientist, but everything he came up with was in the laboratory. It had no connection with reality, is what we thought rather than what we knew. Let us go with what we know rather than what we think.

Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Speaker recognizes the gentleman from Chester County, Mr. Truitt.

Mr. TRUITT. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of this amendment. I have a pretty strong reason for it. We just heard a little bit about what we think versus what we know. Well, a few years ago my youngest son made about 3 years' improvement in his writing skills in one school year, and the way he did that is because my wife and I took him out of one of the best school districts in the State and we put him into a charter school that does not have a playground, it does not have a football field, it does not have a gymnasium or a big stage or anything like that. I put him into a school that focuses on academics, a charter school that focuses on academics.

I think this is a great amendment. There are a lot of reasons why people choose to send their children to charter schools. Some families choose to send their children to charter schools because of academics; they are dissatisfied with the quality of the education that kids get in their local school districts. Some families send their kids to charter schools for safety reasons. Some families have children with special needs. I recently referred a constituent who had a child who had difficulty sitting still in class, and I told her, why do you not give her a shot at a cyber school? And she did, and she is so happy with it that she is now sending her other child to that same cyber school.

Some families choose charter schools for scheduling reasons. If they have an interest in a specific sport that meets at a certain time of the day, some charter schools are better at accommodating scheduling issues. Academic flexibility: The

charter schools are not hung up on some of the same rules that the traditional public schools are held up on in terms of what age a kid will take a certain class.

And then finally, some families, including my own, ultimately choose a charter school because the charter schools provide better customer service than a traditional public school. They allow parents to be more involved than some of the traditional public schools.

The current charter law, and I applaud everyone who was here 13 years ago to help make this a reality, because you are all my heroes, because you guys, you created a system that has changed the lives of my family. But the current law has some deficiencies. The fact that the school districts have to be the authorizer of a charter school is kind of like a forced marriage, and if you paid attention at any of the Education hearings that we had this summer, it was evident that there is a huge contempt between the traditional public schools and the charter schools. They regard each other as competitors and they treat each other as competitors, yet one of these two competitors is in control of the charter. That results in a lack of cooperation.

One of the reasons why we have the Charter School Law or one of the purposes of the charter schools was to be a laboratory of education or a laboratory of innovation for education. And the charter schools try all sorts of different things. The charter school that my kids attend has tried a lot of interesting stuff, and the things that they learned are not getting back to the traditional public schools, because the traditional public schools cannot even acknowledge that they are possibly doing something better than they are doing. So the benefits of innovation in these charter schools are not being spread back to the public schools that were supposed to benefit from it.

There are also significant cash-flow issues coming from the fact that the charter schools get paid by the school districts. One of the key provisions of this amendment is that charter schools will be paid directly by the State. The school district that my children would have attended does not pay our charter school; they just do not do it, and what that means is that the charter school has to wait 60 days and apply to get the money directly from the State. And eventually they get it, but that puts a 60-day delay on them getting their money, and that creates a cash-flow crisis for the charter school.

Two years ago when you guys were working on the budget here and it went 100-and-some days over – I was still just a regular citizen – we were very concerned that our charter school was going to close because they were not getting their funding. Charter schools operate on a tight budget, and when they do not get paid by their school districts, it has a big impact on them.

There is a lack of sharing between the school districts and the charter schools. My older son, when we transitioned him out, we asked if he could take part or be part of the middle school band, and they said no. So he gave up his interest in the string bass and now just focuses on academics.

In the days when we applied to get my children into this charter school, we had to join the lottery, like tens of thousands of families in the Philadelphia School District, and we waited on pins and needles to find out if my older son would get in, and then again 2 years later we waited on pins and needles to find out if my younger son would get in. Obviously the good news was they did both get in to the same school, and it has been a life-changing experience for us. And it is an experience that has

been so good for us that I would like to see other families have that same opportunity. I do not think it is fair that my children get the advantage of a great charter school and other kids who would go to a charter school cannot simply because we do not have enough of them.

So the amendment that we are talking about here today is going to make it easier to get new charter schools started and provide new opportunities for more families. So I urge my colleagues for a "yes" vote, and I thank you for your time.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Beaver County, Mr. Christiana.

Mr. CHRISTIANA. Thank you, Mr. Speaker.

Mr. Speaker, I have heard a lot of criticism already tonight about why we should not do amendment 7732. I have heard how legislators in Harrisburg think they are going to make better choices than 93,000 sets of parents in Pennsylvania who have already chosen to send their son or daughter to a charter school.

Mr. Speaker, in Pennsylvania, unfortunately, we have some failing, violent public schools. If we just look at the bottom 5 percent, Mr. Speaker, of schools in Pennsylvania, public schools, there are over 5,000 violent incidents every school year, roughly 1 violent incident in every 17 minutes.

Mr. Speaker, there are parents in Pennsylvania that want to send their son or daughter to a different school that is safe, and it is their choice, in my opinion, Mr. Speaker, to pick the best environment for their son or daughter. Charter schools have been proven over the last decade to be an alternative for parents.

Mr. Speaker, there are kids, 70 percent of the students going to Philadelphia Community College, 70 percent of those students need remedial education. There are certain school districts in Pennsylvania that need reform, Mr. Speaker. They may not be in the 15th Legislative District, but they exist, and we must address it.

The gentleman has offered amendment 07732, which will empower parents to get more involved in picking the setting for their son or daughter, and sometimes, Mr. Speaker, that is going to be a lifeline. I think the legislature should embrace a proven system and allow parents to choose where their son or daughter is going.

Mr. Speaker, I urge my colleagues on both sides of the aisle to empower parents to make their choice for their son or daughter, and I urge an affirmative vote for the parents and the children of Pennsylvania who deserve and demand options.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

Let me begin by saying that I do agree with the gentleman from Chester when he talked about academic excellence, because indeed I am a product of a Philadelphia public school that has academic excellence. Indeed it was voted to be the number one high school in the State of Pennsylvania this year – a public school, Mr. Speaker, that excels, as many public schools excel.

Now, let us get to the bottom line on this discussion. The gentleman who has made this amendment refers to the fact that there are many failing schools, but what he does not point out, Mr. Speaker, is that 75 percent of the public schools in this State make AYP (adequate yearly progress), but only 60 percent of charter schools make AYP every year and only 17 percent of cyber charters make AYP. Let us compare apples to apples. Which ones are doing better, the regular public schools, the charters, or the cyber charters? Clearly those who are making AYP are not the charter schools, Mr. Speaker; they are the standard public schools that put emphasis upon quality.

Let me also note that the maker of the amendment has referenced the fact that there are huge numbers of kids waiting to get into charter schools, but the reality is, Mr. Speaker, there are no caps on charter school enrollment. Those kids can get into charter schools. That is not the issue, Mr. Speaker. There are no caps on enrollment in charter schools.

And we look at what he proposes to do. He proposes to destroy the essence of what makes charter schools good. That is, he wants to take out that provision in the law that says they should be innovative. Well, the schools, we have more charters in Philadelphia than any other district in the State, and our schools are innovative. We have got schools for architecture, for politics, for government, for all those different subject matters. They are quality schools, but this amendment takes that provision out of the law. What are we doing here? What are we doing here?

And I want to be very clear that if we want to make schools better, let us do it. Let us not go through an idea that has not even been vetted in the Education Committee. This has not even gone through the Education Committee, Mr. Speaker.

And let us also understand that what the amendment does, it creates an authorizing office for charter schools at the State level that can create charter schools without the approval of local school districts, yet those local school districts must pay for those charter schools. So all of us in this chamber ought to understand that if we pass this amendment, we are saying it is all right for the State to create schools in our school districts that we will pay for and which we have no say in the creation. So much for local authority.

Mr. Speaker, I would urge us to oppose this amendment, and I would urge that my colleagues vote "no." Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendment?

(Members proceeded to vote.)

The SPEAKER. Have all the members voted? Have all the members voted? Have all the members voted?

For the information of the members, the board is allowed to be open for 10 minutes. However, it was about 7 or 8 minutes till 11 when I called for the vote, but because of the 11 o'clock rule, the obvious timeline, the maximum the board would be allowed to be open would be 11 o'clock. But it has only been 5 minutes since the board was opened.

Have all the members voted? The clerk will record the vote.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—90

Adolph	Gillen	Major	Roae
Aument	Gingrich	Maloney	Rock
Barrar	Godshall	Marshall	Ross
Bear	Grell	Marsico	Saccone
Benninghoff	Hackett	Masser	Saylor
Bloom	Hahn	Metcalfe	Schroder
Christiana	Harhart	Metzgar	Sonney
Cox	Harper	Micozzie	Stephens
Creighton	Harris	Moul	Stevenson
Culver	Heffley	Murt	Swanger
Cutler	Helm	Mustio	Tallman
Davidson	Hennessey	Oberlander	Taylor
Day	Hickernell	Payne	Tobash
Delozier	Hutchinson	Perry	Toepel
Denlinger	Kampf	Petri	Truitt
Dunbar	Kauffman	Pickett	Turzai
Ellis	Keller, F.	Pyle	Vereb
Emrick	Keller, W.	Quigley	Vulakovich
Evankovich	Killion	Quinn	Watson
Evans, D.	Knowles	Rapp	Wheatley
Everett	Krieger	Reed	
Farry	Lawrence	Reese	Smith, S.,
Gabler	Maher	Reichley	Speaker

NAYS—105

Baker	DeLuca	Josephs	Peifer
Barbin	DePasquale	Kavulich	Petrarca
Bishop	Dermody	Kirkland	Preston
Boback	DeWeese	Kortz	Ravenstahl
Boyle, B.	DiGirolamo	Kotik	Readshaw
Boyle, K.	Donatucci	Kula	Roebuck
Bradford	Fabrizio	Longiotti	Sabatina
Brennan	Fleck	Mahoney	Sainato
Briggs	Frankel	Mann	Samuelson
Brown, R.	Freeman	Markosek	Santarsiero
Brown, V.	Galloway	Matzie	Santoni
Brownlee	Geist	McGeehan	Scavello
Burns	George	Miccarelli	Shapiro
Buxton	Gerber	Millard	Smith, K.
Caltagirone	Gergely	Miller	Smith, M.
Carroll	Gibbons	Milne	Staback
Causser	Gillespie	Mirabito	Stern
Clymer	Goodman	Mullery	Sturla
Cohen	Grove	Mundy	Thomas
Conklin	Haluska	Murphy	Toohil
Costa, P.	Hanna	Myers	Vitali
Cruz	Harhai	Neuman	Wagner
Curry	Harkins	O'Brien, M.	Waters
Daley	Hess	O'Neill	White
Davis	Hornaman	Parker	Williams
Deasy	Johnson	Pashinski	Youngblood
DeLissio			

NOT VOTING—0

EXCUSED—8

Boyd	Costa, D.	Keller, M.K.	Payton
Brooks	Evans, J.	O'Brien, D.	Simmons

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration?

BILL PASSED OVER

The SPEAKER. SB 560 will be passed over for the day.

For the information of the members, the desk will be open for some administrative housekeeping types of things beyond 11 o'clock, which is permitted by rule, and when we do adjourn, it will be for 11 a.m. tomorrow.

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Mr. Samuelson, rise?

Mr. SAMUELSON. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman may state his inquiry.

Mr. SAMUELSON. My understanding is the State Senate is considering congressional districts in the middle of the night, and I wanted to ask if one of those housekeeping measures is going to be a first reading of a congressional district map?

The SPEAKER. I cannot do that at that time. The bill just might come over from the Senate, but that would be the only action that is taken. I am allowed to receive a bill, but I would not be giving it first reading.

Mr. SAMUELSON. First reading on such a bill could not happen until tomorrow, if the Senate would send it over at some point?

The SPEAKER. That is correct.

Mr. SAMUELSON. Thank you, Mr. Speaker.

The SPEAKER. There will be no further business other than the housekeeping that I made reference to.

SENATE MESSAGE

AMENDED HOUSE BILL RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 1950, PN 2837**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

SENATE MESSAGE

HOUSE AMENDMENTS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 638, PN 1828; SB 732, PN 1851; SB 957, PN 1804; SB 967, PN 1805; and SB 1183, PN 1857.**

BILLS SIGNED BY SPEAKER

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

SB 242, PN 209

An Act designating the bridge that carries State Route 601 over Barclay Run in the Borough of Somerset, Somerset County, as the Trooper Stephen R. Gyrke Memorial Bridge.

SB 638, PN 1828

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, in public assistance, further providing for definitions; and, in public assistance, providing for mileage reimbursement for individuals receiving methadone treatment.

SB 732, PN 1851

An Act amending the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, further providing for definitions, for licensure, for application for license, for issuance of license and for inspections.

SB 957, PN 1804

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, further providing for definitions, for State Board of Osteopathic Medicine, for athletic trainers and for reasons for refusal, revocation or suspension of license.

SB 967, PN 1805

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, further providing for definitions, for the State Board of Medicine and for athletic trainers.

SB 1183, PN 1857

An Act amending Titles 18 (Crimes and Offenses), 23 (Domestic Relations), 42 (Judiciary and Judicial Procedure), 44 (Law and Justice) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, extensively revising provisions relating to registration of sexual offenders pursuant to Federal mandate; and making editorial changes.

Whereupon, the Speaker, in the presence of the House, signed the same.

BILLS RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 1702;
HB 1813;
HB 2052;
SB 995;
SB 1276;
SB 1310;
SB 1335; and
SB 1336.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be removed from the tabled calendar and placed on the active calendar:

HB 665;
HB 1333;
HB 1907;
HB 2004;
HB 2011; and
SB 1054.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be removed from the tabled calendar and placed on the active calendar:

HB 798;
HB 1762; and
HB 1908.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be removed from the active calendar and placed on the tabled calendar:

HB 798;
HB 1762; and
HB 1908.

On the question,
Will the House agree to the motion?
Motion was agreed to.

SENATE BILL FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bill for concurrence:

SB 1249, PN 1869

Referred to Committee on STATE GOVERNMENT,
December 14, 2011.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. Seeing no further business before the House, the Speaker recognizes the gentleman, Mr. Tobash, from Schuylkill County, who moves that this House do adjourn until Thursday, December 15, 2011, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 11:23 p.m., e.s.t., the House adjourned.