

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2706 Session of
1998

INTRODUCED BY HUTCHINSON, McILHATTAN, LYNCH, FARGO, EGOLF,
CLARK, BAKER AND SAYLOR, JUNE 10, 1998

REFERRED TO COMMITTEE ON FINANCE, JUNE 10, 1998

AN ACT

1 Authorizing counties to impose sales, use, occupancy, personal
2 income or earned income and net profits taxes; authorizing
3 municipalities to impose personal income, earned income and
4 net profits and municipal service taxes; empowering
5 municipalities to require county sales and use taxes;
6 providing for the levying, assessment and collection of such
7 taxes; providing for the powers and duties of the Department
8 of Community and Economic Development, the Department of
9 Revenue and the State Treasurer; and providing an additional
10 exemption from the tax on intangible personal property.

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25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:
27 CHAPTER 1
28 GENERAL PROVISIONS
29 Section 101. Short title.

30 This act shall be known and may be cited as the Optional

1 Local Tax Enabling Act.

2 Section 102. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Association." As defined in section 301 of the act of March
7 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

8 "Board of county commissioners." Includes the successor in
9 function to the board of county commissioners in a county which
10 has adopted a home rule charter under the former act of April
11 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and
12 Optional Plans Law, or under 53 Pa.C.S. Pt. III Subpt. E
13 (relating to home rule and optional plan government), but does
14 not include the city council of a city of the first class.

15 "Budgeted revenue." The revenue from taxes actually levied
16 and assessed by a local government unit. The term does not
17 include revenue from:

18 (1) Delinquent taxes.

19 (2) Payments in lieu of taxes.

20 (3) The real estate transfer tax.

21 (4) The Public Utility Realty Tax, commonly known as
22 PURTA.

23 (5) Interest or dividend earnings.

24 (6) Federal or State grants, contracts or
25 appropriations.

26 (7) Income generated from operations.

27 (8) Any other source that is revenue not derived
28 directly from taxes levied and assessed by a local government
29 unit.

30 "Business." As defined in section 301 of the act of March 4,

1 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

2 "Compensation." As defined in section 301 of the act of
3 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
4 1971.

5 "County." A county-level municipality within this
6 Commonwealth, regardless of classification. The term includes a
7 county which has adopted a home rule charter or optional plan of
8 government under the former act of April 13, 1972 (P.L.184,
9 No.62), known as the Home Rule Charter and Optional Plans Law,
10 or under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and
11 optional plan government). The term does not include a county of
12 the first class, second class or second class A.

13 "Current year." The calendar year or fiscal year for which
14 the tax is levied.

15 "Department." The Department of Revenue of the Commonwealth.

16 "Domicile." As defined in section 13 of the act of December
17 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling
18 Act.

19 "Earned income." The classes of income defined as earned
20 income in section 13 of the act of December 31, 1965 (P.L.1257,
21 No.511), known as The Local Tax Enabling Act.

22 "Employer." As defined in section 301 of the act of March 4,
23 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

24 "Governing body." The board of county commissioners,
25 including the successor in function to the board of county
26 commissioners in a county which has adopted a home rule charter
27 under the former act of April 13, 1972 (P.L.184, No.62), known
28 as the Home Rule Charter and Optional Plans Law, or under 53
29 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional
30 plan government), city council, borough council, incorporated

1 town council, board of township commissioners, board of township
2 supervisors, a governing council of a home rule municipality or
3 optional plan municipality, a governing council of any similar
4 general purpose unit of government which may hereafter be
5 created by statute. The term does not include the city council
6 of a city of the first class.

7 "Home rule municipality." A city, borough, incorporated town
8 or township which has adopted a home rule charter under the
9 former act of April 13, 1972 (P.L.184, No.62), known as the Home
10 Rule Charter and Optional Plans Law, or under 53 Pa.C.S. Pt. III
11 Subpt. E (relating to home rule and optional plan government).

12 "Individual." As defined in section 301 of the act of March
13 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

14 "Inverse per capita income." A factor determined by dividing
15 the integer one by the per capita income of the municipality, as
16 determined by the most recent survey by the Department of
17 Community and Economic Development.

18 "Local Tax Enabling Act." The act of December 31, 1965
19 (P.L.1257, No.511), known as The Local Tax Enabling Act.

20 "Municipal service tax." A tax upon residents and
21 nonresidents employed within a municipality.

22 "Municipality." A city of the second class, city of the
23 second class A, city of the third class, borough, incorporated
24 town, township of the first class, township of the second class,
25 home rule municipality, optional plan municipality, optional
26 form municipality or similar general purpose unit of government
27 which may hereafter be created by statute, except a city of the
28 first class and any municipality located within a county of the
29 first class, second class or second class A.

30 "Net profits." The classes of income defined as net profits

1 in section 13 of the act of December 31, 1965 (P.L.1257,
2 No.511), known as The Local Tax Enabling Act.

3 "Nonresident." An individual domiciled outside the
4 municipality.

5 "Optional form municipality." A city which has adopted an
6 optional form of government under the act of July 15, 1957
7 (P.L.901, No.399), known as the Optional Third Class City
8 Charter Law.

9 "Optional plan municipality." A city, borough, incorporated
10 town or township which has adopted an optional plan of
11 government under the former act of April 13, 1972 (P.L.184,
12 No.62), known as the Home Rule Charter and Optional Plans Law,
13 or under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and
14 optional plan government).

15 "Ordinance." Includes a resolution.

16 "Personal income." Income enumerated in section 303 of the
17 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
18 of 1971, as returned to and ascertained by the Department of
19 Revenue, subject, however, to any correction thereof for fraud,
20 evasion or error as finally ascertained by the Commonwealth.

21 "Preceding year." The calendar year or fiscal year before
22 the current year.

23 "Register." The register provided for in Chapter 9.

24 "Relative tax effort." The total tax revenues from all
25 sources of a municipality as reported to the Department of
26 Community and Economic Development, divided by the total tax
27 revenues from all sources from all municipalities in the county.

28 "Resident individual." An individual who is domiciled in a
29 municipality.

30 "Statewide average weekly wage." That amount determined

1 annually for each calendar year by the Department of Labor and
2 Industry under section 105.1 of the act of June 2, 1915
3 (P.L.736, No.338), known as the Workers' Compensation Act.

4 "Succeeding year." The calendar year or fiscal year
5 following the current year.

6 "Tax officer." The person, public employee or private agency
7 designated by a governing body to collect and administer the
8 municipal service tax imposed under this act.

9 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
10 known as the Tax Reform Code of 1971.

11 "Taxpayer." An individual required under this act to file a
12 tax return or to pay a tax.

13 "Weighted formula." A formula dividing an allocation into
14 thirds, with one-third based on relative population, one-third
15 based on relative tax effort and one-third based on the relative
16 inverse per capita income.

17 Section 103. Scope and limitations.

18 (a) General rule.--Except as provided in subsections (b),
19 (c), (d) and (e), it is the intent of this act to confer upon
20 each county and municipality the power to levy, assess and
21 collect taxes upon the subjects of taxation set forth in this
22 act.

23 (b) Real estate transfer taxes.--This act does not affect
24 the powers of a municipality to levy, assess and collect a real
25 estate transfer tax, including any real estate transfer tax
26 levied under the authority of section 652.1(a)(4) of the act of
27 March 10, 1949 (P.L.30, No.14), known as the Public School Code
28 of 1949.

29 (c) Amusement taxes.--Notwithstanding any other provision of
30 this act, any municipality which has elected to participate

1 under section 303(a) and has on or before January 1, 1997,
2 levied, assessed or collected or provided for the levying,
3 assessment or collection of an amusement tax may continue to
4 levy, assess and collect such tax on such subjects upon which
5 the tax was imposed by the municipality as of January 1, 1997,
6 at a rate not to exceed the rate imposed by the municipality as
7 of January 1, 1997.

8 (d) Mercantile or business privilege taxes on gross
9 receipts.--Nothing in this act shall, either explicitly or
10 implicitly, permit a county or municipality to impose or
11 increase the rate of any mercantile or business privilege tax on
12 gross receipts not otherwise permitted prior to the effective
13 date of this act, nor shall any provision of this act affect the
14 prohibitions on business gross receipts taxes as set forth in
15 section 2 of the Local Tax Enabling Act, section 533 of the act
16 of December 13, 1988 (P.L.1121, No.145), known as the Local Tax
17 Reform Act, the Tax Reform Code and any other relevant act.

18 (e) Limitations.--

19 (1) The provisions of this act shall not apply to any
20 county of the first class, second class or second class A.

21 (2) The provisions of this act shall not apply to any
22 municipality located within a county of the first class,
23 second class or second class A.

24 (3) The provisions of this act shall not apply to any
25 city of the first class.

26 Section 104. Preemption.

27 No act of the General Assembly will vacate or preempt any
28 ordinance adopted under this act providing for the imposition of
29 a tax by a county or municipality unless the act of the General
30 Assembly expressly vacates or preempts the authority to adopt

1 the ordinance.

2 Section 105. Home rule counties and municipalities.

3 (a) Participation under act.--Except for the case when a
4 governing body of a home rule county elects to adopt the tax
5 authorized under section 312, the governing body of a home rule
6 county or home rule municipality which desires to participate
7 under the provisions of this act shall not be subject to the
8 public referendum requirements of section 303(b). The governing
9 body of a home rule county which desires to adopt the tax
10 authorized under section 312 shall be subject to the public
11 referendum requirements of section 303(b).

12 (b) Public referendum requirements for increasing property
13 taxes previously reduced.--Any governing body of a home rule
14 county or home rule municipality which elects to participate
15 under this act is not subject to the provisions of section 304.

16 (c) Ending participation under act.--The governing body of a
17 home rule county or home rule municipality which desires to end
18 participation under the provisions of this act shall not be
19 subject to the public referendum requirements of section 303.

20 (d) Rates of taxation.--A home rule county shall not have
21 the right or authority to fix the rate of taxation for the
22 subjects of taxation authorized under Chapter 3 in excess of the
23 rates fixed in Chapter 3.

24 (e) Disposition of revenues.--Home rule counties which elect
25 to participate under the provisions of this act shall be subject
26 to all the provisions of sections 701(a) and 702(b)(1),
27 including the provision that any increase in revenues between
28 the transition year and the prior year's budgeted revenues not
29 exceed 5% or the annual increase in the Statewide average weekly
30 wage, whichever is less.

1 Section 106. Certain rates of taxation limited.

2 If a municipality and school district both impose an earned
3 income tax on the same individual under the Local Tax Enabling
4 Act and the municipality and school district are limited to, or
5 have agreed upon, a division of the tax rate in accordance with
6 section 8 of the Local Tax Enabling Act, then the municipality
7 and school district which continue to levy the income tax under
8 the Local Tax Enabling Act shall remain subject to that
9 limitation or agreement in the event that one or the other opts
10 to impose a tax under section 322 or 331.

11 CHAPTER 3

12 SUBJECTS OF TAXATION

13 SUBCHAPTER A

14 TAX AUTHORIZATION

15 Section 301. General tax authorization.

16 (a) General rule.--Subject to sections 303 and 304 and
17 except as provided in subsection (b), each county or
18 municipality shall have the power and may by ordinance levy,
19 assess and collect or provide for the levying, assessment and
20 collection of such taxes on the subjects specified in this
21 chapter for general revenue purposes as it shall determine on
22 any or all of the subjects of taxation set forth in this act
23 within the geographical limits of the county or municipality.

24 (b) Exclusions.--No county or municipality which levies a
25 tax authorized by this act shall have any power or authority to
26 levy, assess or collect:

27 (1) A tax based upon a flat rate or on a millage rate on
28 an assessed valuation of a particular trade, occupation or
29 profession, commonly known as an occupation tax.

30 (2) A tax at a set or flat rate upon persons employed

1 within the taxing district, commonly known as an occupational
2 privilege tax.

3 (3) A per capita, poll, residence or similar head tax.

4 (4) The earned income and net profits tax levied under
5 the Local Tax Enabling Act.

6 (5) Any other tax authorized or permitted under the
7 Local Tax Enabling Act except a mercantile or business
8 privilege tax on gross receipts, as modified by paragraph
9 (7).

10 (6) The intangible personal property tax under the act
11 of June 17, 1913 (P.L.507, No.335), referred to as the
12 Intangible Personal Property Tax Law.

13 (7) Any mercantile or business privilege tax on gross
14 receipts, as limited by section 533 of the act of December
15 13, 1988 (P.L.1121, No.145), known as the Local Tax Reform
16 Act, after one year from the date of the election to
17 participate under this act pursuant to section 303.

18 (8) Any other tax authorized under the Local Tax
19 Enabling Act as limited by the provisions of this act.

20 (c) Delinquent taxes.--The provisions of subsection (b)
21 shall not apply to collection of delinquent taxes.

22 Section 302. Continuity of tax.

23 Every tax levied under the provisions of this act shall
24 continue in force on a calendar or fiscal year basis, as the
25 case may be, without annual reenactment unless the rate of tax
26 is increased or the tax is subsequently repealed.

27 Section 303. Election to participate under act.

28 (a) General rule.--

29 (1) Any governing body which desires to participate
30 under the provisions of this act shall make that

determination by using the procedures set forth in subsection (b).

(2) Any governing body after making an election to participate under this act may, after a period of at least three full calendar years or fiscal years of participation, elect, under the provisions of subsection (b), to levy, assess and collect the taxes prohibited by section 301(b) to the extent otherwise provided by law. If the electorate approves such referendum, the governing body shall lose the authority to continue to levy any tax authorized under this act.

(3) If a municipality or county does not act as authorized under subsection (b) within five years following the effective date of this act, a referendum on the question of whether a tax study commission shall be appointed in accordance with the terms and conditions of this act may be initiated by electors of the municipality or county. A petition containing a proposal for referendum on the question of appointing a tax study commission, signed by electors comprising 2% of the number of electors voting for the office of Governor in the last gubernatorial general election in the municipality or county, may be filed with the election officials at least 90 days prior to the next general election.

(i) The name and address of the person filing the petition shall be clearly stated on the petition.

(ii) The election officials shall, within ten days after filing, review the initiative petition as to the number and qualifications of signers. If the petition appears to be defective, the election officials shall

1 immediately notify the person filing the petition of the
2 defect.

3 (iii) The initiative petition as submitted to the
4 election officials along with the list of signatories
5 shall be open to public inspection in the office of the
6 election officials.

7 (iv) When the election officials find that the
8 petition as submitted is in proper order, they shall send
9 copies of the initiative petition without signatures
10 thereon to the governing body of the municipality or
11 county involved.

12 (v) The procedure for the referendum shall be
13 governed by the act of June 3, 1937 (P.L.1333, No.320),
14 known as the Pennsylvania Election Code.

15 (vi) When the election officials find the initiative
16 petition as submitted by the electors meets the
17 requirements of this act, they shall place the proposal
18 on the ballot in a manner fairly representing the content
19 of the initiative petition for decision by referendum at
20 the proper election.

21 (vii) The election officials shall certify the date
22 for the referendum and shall so notify the governing body
23 of the municipality or county at least 30 days prior to
24 such date.

25 (viii) At least 30 days' notice of the referendum
26 shall be given by proclamation of the governing body of
27 the municipality or county. A copy of the proclamation
28 shall be posted at each polling place on the day of the
29 election and shall be published once in at least one
30 newspaper of general circulation in the municipality or

1 county during the 30-day period prior to the election.

2 (ix) Approval of a referendum shall be by a majority
3 vote of those voting in each municipality or county
4 involved.

5 (x) The election officials shall certify the results
6 of the referendum to the governing body.

7 (b) Public referendum requirements to participate or end
8 participation under act.--Subject to the notice and public
9 hearing requirements of section 316(a), 325(a) or 334, whichever
10 is applicable, a governing body may elect to participate or, in
11 accordance with subsection (a)(2), may elect to end
12 participation under this act by obtaining the approval of the
13 electorate of the affected county or municipality in a public
14 referendum at only the November election preceding the calendar
15 year or fiscal year when the taxes will be initially imposed.
16 The referendum question must state the initial rate of the
17 proposed tax, the reason for the tax and the amount of proposed
18 revenue growth, if any, in the fiscal year of transition to the
19 tax system authorized under this act, expressed as a percent
20 increase over the prior year's budgeted revenue. Any increase in
21 revenues between the transition year and the prior year's
22 budgeted revenue shall not exceed 5% or the annual percent
23 change in the Statewide average weekly wage, whichever is less.
24 The governing body must frame the question in clear language
25 that is readily understandable by the layperson. For the purpose
26 of illustration, a referendum question could be framed as
27 follows:

28 Do you favor the imposition of an X% (name of tax) to be
29 used to replace certain existing local taxes, make
30 reductions in real property taxes and provide for a one-

1 time spending increase of X% over the preceding fiscal
2 year?

3 A nonlegal interpretative statement must accompany the question
4 in accordance with section 201.1 of the act of June 3, 1937
5 (P.L.1333, No.320), known as the Pennsylvania Election Code,
6 that includes the following: the initial rate of the tax or
7 taxes to be imposed and the maximum allowable rate of the tax or
8 taxes imposed under this act; the estimated revenues to be
9 derived from the initial rate of the tax or taxes imposed under
10 this act; the amount of proposed revenue growth, if any, in the
11 fiscal year of transition to the tax system authorized under
12 this act; the estimated tax savings from the reduction in real
13 property taxes and the elimination of certain existing taxes
14 under this act; the identification of the existing taxes to be
15 eliminated under this act; the method or methods to be used to
16 reduce real property taxes; the class or classes of real
17 property for which real property taxes would be reduced; the
18 estimated amount of real property tax reduction by class,
19 expressed as an average percent reduction by class. Any
20 governing body which uses the procedures under this section
21 shall not be subject to the provisions of section 304 for any
22 future increases in income tax rates. Any future real property
23 tax rate increases are subject to the provisions of section 304.
24 If there is a failed attempt to participate under the provisions
25 of this act pursuant to section 303, section 303 or 304 shall
26 not require the approval of the electorate as a prerequisite to
27 the increase in the rate of any tax which the governing body of
28 the affected county or municipality is authorized to levy and
29 increase pursuant to any other act.

30 Section 304. Public referendum requirements for increasing

1 property taxes previously reduced.

2 (a) General rule.--Except as provided in subsection (c), a
3 governing body of a municipality or county which elects to
4 participate under this act pursuant to section 303(a) may not
5 increase the rate of real property taxes that were reduced using
6 revenue derived from an income and/or sales tax imposed under
7 this act or any other act by an amount exceeding the annual
8 percent change in the Statewide average weekly wage in the
9 preceding year without first obtaining approval of the
10 electorate of the affected county or municipality in a public
11 referendum at the November election immediately preceding the
12 calendar year of the proposed tax increase for entities
13 operating on a calendar year fiscal basis and at the primary
14 election for the calendar year of the proposed tax increase for
15 entities operating on a July to June fiscal basis.

16 (b) Disapproval.--Whenever the electorate fails to approve
17 the proposed referendum question as required under subsection
18 (a) increasing the rates of tax, the governing body shall be
19 limited to the tax rate in effect prior to the referendum.

20 (c) Referendum exceptions.--The provisions of subsection (a)
21 shall not apply to any necessary tax increases in the following
22 cases:

23 (1) To respond to or recover from an emergency or
24 disaster declared pursuant to 35 Pa.C.S. Pt. V (relating to
25 emergency management services), for the duration of the
26 emergency or disaster or for the costs of the recovery from
27 the emergency or disaster.

28 (2) To implement a court order or an administrative
29 decision of a Federal or State agency. In instances where the
30 tax increase is necessary to respond to a court order or an

1 administrative decision of a Federal or State agency
2 requiring a temporary increase in local expenditures, the
3 rate increase shall be rescinded following fulfillment of the
4 court order or administrative decision.

5 (3) To pay interest and principal on any indebtedness
6 incurred under 53 Pa.C.S. Pt. VII Subpt. B (relating to
7 indebtedness and borrowing). However, in no case may a taxing
8 jurisdiction incur additional debt under this paragraph,
9 except for the refinancing of existing debt, including the
10 payment of costs and expenses related to such refinancing and
11 the establishment or funding of appropriate debt service
12 reserves.

13 (4) Taxes levied under section 607(f) of the act of
14 December 18, 1984 (P.L.1005, No.205), known as the Municipal
15 Pension Plan Funding Standard and Recovery Act, or levied to
16 pay increases in pension fund requirements which are in
17 excess of the annual average increase over the immediately
18 preceding five fiscal years.

19 (5) To increase revenues when actual and projected local
20 tax revenues, including any share of a county sales and use
21 tax, decline from the immediately preceding year but only to
22 the extent of the revenue decline.

23 (6) To respond to conditions that pose a threat of
24 immediate harm or injury to the students, staff or residents
25 of the county or municipality.

26 (7) Special purpose tax levies approved by the
27 electorate.

28 (8) To respond to a Federal or State statute, regulation
29 or order adding to or significantly altering responsibilities
30 and duties or requiring expenditure of county or local funds

1 to the extent not funded by the Federal or State Government.

2 This provision shall apply only to a Federal or State
3 statute, regulation or order taking effect after the
4 effective date of this act.

5 (d) Court action.--Prior to any tax increase under
6 subsection (c)(1), (4), (5), (6) or (8), approval is required by
7 the court of common pleas in the judicial district in which the
8 governing body is located. The following shall apply to any
9 proceedings instituted under this subsection:

10 (1) The governing body must prove by a preponderance of
11 evidence the necessity for the tax increase.

12 (2) The court may retain continuing jurisdiction in
13 these cases and may, on its own motion or on petition of an
14 interested party, revoke approval for a tax increase.

15 (e) Distressed municipality or county.--This section shall
16 not be construed to prohibit any municipality or county declared
17 distressed under the act of July 10, 1987 (P.L.246, No.47),
18 known as the Municipalities Financial Recovery Act, from
19 petitioning the court of common pleas for a tax increase in
20 accordance with section 123(c) of the Municipalities Financial
21 Recovery Act.

22 (f) Standing.--Any taxpayer or business shall have standing
23 as a party to a proceeding under this section as long as the
24 taxpayer or business resides within or pays real property taxes
25 to the taxing jurisdiction of the governing body instituting the
26 action.

27 Section 305. Local tax study commission.

28 (a) First-year implementation.--Before any municipality or
29 county seeks referendum approval for the levy, assessment or
30 collection of any tax under the authority of this act, the

governing body may appoint a local tax study commission in
accordance with the following provisions:

(1) Membership.--The local tax study commission shall
consist of members appointed by the governing body. One
member of the local tax study commission may be a member of
the governing body, as deemed appropriate by the governing
body. No member of the local tax study commission shall be a
relative, by blood or marriage, of an official or employee of
the municipality or county. All members shall be residents of
the municipality or county. In municipalities with a
population of less than 5,000, there shall be a minimum of
three members. In municipalities with a population of 5,000
or more, and in counties, the local tax study commission
shall consist of five, seven or nine members. Representatives
on a local tax study commission must reasonably reflect the
socioeconomic, age and occupational diversity of the
municipality or county.

(2) Staff and expenses.--The governing body shall
provide necessary and reasonable staff to support the local
tax study commission and shall reimburse the members of the
local tax study commission for necessary and reasonable
expenses in the discharge of their duties.

(3) Contents of study.--The local tax study commission
shall study the existing taxes levied, assessed and collected
by the municipality or county and the effect of any county or
municipal taxes imposed concurrently with a school district
and shall determine if and how the tax policies of the
municipality or county could be strengthened or made more
equitable by adopting for levy, assessment and collection one
or a combination of any of the following taxes: local

1 personal income tax, earned income and net profits tax, real
2 estate tax or realty transfer tax at such levels and in such
3 combinations on permissible subjects of taxation as do not
4 exceed the limitations in this act. This study shall include,
5 but not be limited to, consideration of all of the following:

6 (i) Historic rate and revenue provided by taxes
7 currently levied, assessed and collected by the
8 municipality or county.

9 (ii) The percentage of total revenues provided by
10 taxes currently levied, assessed and collected.

11 (iii) The age, income, employment and property use
12 characteristics of the existing tax base.

13 (iv) The projected revenues of any taxes currently
14 levied, assessed and collected.

15 (v) The projected revenues of any taxes referred to
16 in this paragraph not currently levied, assessed and
17 collected by the municipality or county.

18 (4) Recommendation.--Within 60 days of its appointment,
19 the local tax study commission shall make a nonbinding
20 recommendation to the governing body of the appropriate tax
21 or combination of taxes, identified in paragraph (3), to be
22 levied, assessed and collected commencing the next fiscal
23 year. Except as provided for in paragraph (5), if the
24 governing body appoints a commission, no tax may be levied,
25 assessed or collected for the next fiscal year until receipt
26 of the recommendation of the local tax study commission. No
27 later than 30 days prior to the commencement of the next
28 fiscal year, the governing body shall accept or reject the
29 recommendation of the local tax study commission or adopt any
30 other appropriate tax or combination of taxes for the

1 municipality or county commencing the next fiscal year as
2 provided by law.

3 (5) Failure to issue recommendation.--If the local tax
4 study commission fails to make a nonbinding recommendation
5 within 60 days of its appointment, the governing body shall
6 discharge the appointed local tax study commission and
7 appoint itself as the local tax study commission. No later
8 than 30 days prior to the commencement of the next fiscal
9 year, the governing body shall adopt the appropriate tax or
10 combination of taxes for the municipality or county
11 commencing the next fiscal year as provided by law.

12 (6) Public distribution of report.--The local tax study
13 commission shall publish or cause to be published, within 30
14 days of making its recommendation, a final report of its
15 activities and recommendations and shall deliver the final
16 report to the secretary of the governing body who shall
17 supply copies to any interested persons upon request.

18 (7) Receipts.--Receipts are required for all
19 reimbursable expenses under paragraph (2).

20 (8) Materials.--All the records, receipts, tapes,
21 minutes of meetings and written discussions of the local tax
22 study commission shall, upon its discharge, be turned over to
23 the secretary or chief clerk of the municipality or county
24 for permanent safekeeping. The secretary or chief clerk shall
25 make such materials available for public inspection at any
26 time during regular business hours.

27 (9) Discharge.--The local tax study commission shall be
28 discharged upon the filing of its final report.

29 (b) Three-year review.--Any municipality or county that
30 levies, assesses and collects, or provides for the levy,

1 assessment or collection of, any tax, after having received the
2 recommendations of a local tax study commission, shall continue
3 to levy, assess and collect the same tax or combination of taxes
4 for the next three fiscal years. However, nothing herein shall
5 preclude the governing body from changing or altering the rates
6 of any such tax or combination of taxes if it deems necessary.
7 Before the third fiscal year following the municipality or
8 county action on the recommendations of a local tax study
9 commission, and every third fiscal year thereafter, the
10 governing body may appoint a local tax study commission in the
11 manner provided in subsection (a). The local tax study
12 commission appointed under this subsection shall be charged with
13 all of the same powers and duties provided for the local tax
14 study commission under subsection (a).

15 SUBCHAPTER B

16 COUNTY SALES AND USE TAX

17 Section 311. Construction.

18 The tax imposed by the governing body of a county under this
19 subchapter shall be in addition to any tax imposed by the
20 Commonwealth under Article II of the Tax Reform Code. Except for
21 the differing situs provisions under section 313, the provisions
22 of Article II of the Tax Reform Code shall apply to the tax.

23 Section 312. Imposition.

24 (a) Sales.--The governing body of a county, except for a
25 county of the second class, may levy and assess upon each
26 separate sale at retail of tangible personal property or
27 services, as defined in Article II of the Tax Reform Code,
28 within the boundaries of the county, a tax on the purchase
29 price. The tax shall be collected by the vendor from the
30 purchaser and shall be paid over to the Commonwealth as provided

1 in this subchapter. The sales tax shall not be paid to the
2 Commonwealth by any person who has paid the tax imposed under
3 Chapter 5 of the act of June 5, 1991 (P.L.9, No.6), known as the
4 Pennsylvania Intergovernmental Cooperation Authority Act for
5 Cities of the First Class, or subdivision (e) of Article XXXI-B
6 of the act of July 28, 1953 (P.L.723, No.230), known as the
7 Second Class County Code, equal to or greater than the tax
8 imposed under this subsection.

9 (b) Use.--In any county, except for a county of the second
10 class, within which the tax authorized in subsection (a) is
11 imposed, there shall be levied, assessed and collected upon the
12 use, within the county, of tangible personal property purchased
13 at retail and on services purchased at retail, as defined in
14 Article II of the Tax Reform Code, a tax on the purchase price.
15 The tax shall be paid over to the Commonwealth by the person who
16 makes the use. The use tax imposed under this subchapter shall
17 not be paid over to the Commonwealth by any person who has paid
18 the tax imposed under:

19 (1) Subsection (a).

20 (2) This subsection to the vendor with respect to the
21 use.

22 (3) Chapter 5 of the Pennsylvania Intergovernmental
23 Cooperation Authority Act for Cities of the First Class,
24 equal to or greater than the tax imposed under either
25 subsection (a) or this subsection.

26 (4) Subdivision (e) of Article XXXI-B of the Second
27 Class County Code equal to or greater than the tax imposed
28 under either subsection (a) or this subsection.

29 (c) Occupancy.--In any county within which a tax authorized
30 by subsection (a) is imposed, there shall be levied, assessed

1 and collected an excise tax on the rent upon every occupancy of
2 a room or rooms in a hotel in the county. The tax shall be
3 collected by the operator or owner from the occupant and paid
4 over to the Commonwealth.

5 (d) Rate and uniformity.--

6 (1) The tax authorized by subsections (a), (b) and (c)
7 shall be imposed at a rate of 1%.

8 (2) The tax imposed by subsections (a), (b) and (c)
9 shall be uniform.

10 (e) Computation.--The tax imposed under this section shall
11 be computed in the manner set forth in section 503(e)(2) of the
12 Pennsylvania Intergovernmental Cooperation Authority Act for
13 Cities of the First Class.

14 (f) Exception.--The optional provisions of subsections (a),
15 (b) and (c) shall be subject to the provisions of section 320.1.
16 Section 313. Situs.

17 (a) General rule.--Except as provided in subsections (b) and
18 (c), the situs of sales at retail or uses, including leases, of
19 motor vehicles, aircraft, motorcraft and utility services shall
20 be determined in the manner specified by section 504 of the act
21 of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania
22 Intergovernmental Cooperation Authority Act for Cities of the
23 First Class, as well as the act of March 4, 1971 (P.L.6, No.2),
24 known as the Tax Reform Code of 1971.

25 (b) Premium cable services.--The sale or use of premium
26 cable service shall be deemed to occur at the service address in
27 the county which is the address where the customer cable
28 connection is located. This subsection shall determine the situs
29 of premium cable service for the purpose of all local sales
30 taxes, including those imposed pursuant to Chapter 5 of the

1 Pennsylvania Intergovernmental Cooperation Authority Act for
2 Cities of the First Class and pursuant to subdivision (e) of
3 Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230),
4 known as the Second Class County Code.

5 (c) Telecommunications service.--The situs of
6 telecommunications service under this act shall be determined in
7 accordance with regulations adopted by the department, which
8 shall be uniform among all counties, and shall be consistent
9 with regulations promulgated under Subdivision (e) of Article
10 XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as
11 the Second Class County Code, Article II of the Tax Reform Code
12 of 1971 and Chapter 5 of the act of June 5, 1991 (P.L.9, No.6),
13 known as the Pennsylvania Intergovernmental Cooperation
14 Authority Act for Cities of the First Class.

15 Section 314. Licenses.

16 A license for the collection of the tax imposed by this
17 subchapter shall be issued in the same manner as is provided for
18 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known
19 as the Pennsylvania Intergovernmental Cooperation Authority Act
20 for Cities of the First Class. Licensees shall be entitled to
21 the same discount as provided in section 227 of the Tax Reform
22 Code.

23 Section 315. Rules and regulations; collection costs.

24 (a) Regulations.--Rules and regulations shall be applicable
25 to the taxes imposed under section 312 in the same manner as is
26 provided for in section 506(1) and (2) of the act of June 5,
27 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
28 Cooperation Authority Act for Cities of the First Class.

29 (b) Administrative costs.--The department, to cover its
30 costs of administration under this subchapter, shall be entitled

1 to retain a sum equal to the costs of administration. When the
2 annual operating budget for the department is submitted to the
3 General Assembly, the department shall also submit to the
4 chairman and minority chairman of the Appropriations Committee
5 of the Senate and to the chairman and minority chairman of the
6 Appropriations Committee of the House of Representatives a
7 report of the actual sums retained for costs of collection in
8 the preceding fiscal year, together with all supporting details.
9 Section 316. Procedure and administration.

10 (a) Ordinance.--Any county desiring to impose the tax
11 authorized by section 312 shall give at least 60 days' written
12 notice to every municipality located in the county of its intent
13 to impose the tax and shall adopt an ordinance after the
14 expiration of 60 days after the date of such notice. The notice
15 and ordinance shall state the tax rate and refer to this
16 subchapter. The ordinance shall authorize the imposition of all
17 taxes provided for in section 312. Prior to adopting an
18 ordinance imposing the tax authorized by section 312, the
19 governing body of the county shall give public notice of its
20 intent to adopt the ordinance in the manner provided by section
21 4 of the Local Tax Enabling Act and shall conduct at least one
22 public hearing regarding the proposed adoption of the ordinance.

23 (b) Notification to department.--A certified copy of the
24 county ordinance shall be delivered to the department by June 1
25 of the year prior to the effective date thereof. The county
26 ordinance shall become effective on the January 1 following at
27 least seven months after the date of enactment of the county
28 ordinance.

29 (c) Delivery of repeal ordinance.--A certified copy of a
30 repeal ordinance shall be delivered to the department at least

1 120 days prior to the effective date of the repeal.

2 Section 317. County sales and use tax funds.

3 There is hereby created for each county levying the tax under
4 section 312 the (proper name) County Sales and Use Tax Fund. The
5 State Treasurer shall be custodian of the funds which shall be
6 subject to the provisions of law applicable to funds listed in
7 section 302 of the act of April 9, 1929 (P.L.343, No.176), known
8 as The Fiscal Code. Taxes imposed under section 312 shall be
9 received by the department and paid to the State Treasurer and,
10 along with interest and penalties, less any collection costs
11 allowed under this subchapter and any refunds and credits paid,
12 shall be credited to the funds not less frequently than every
13 two weeks. During any period prior to the credit of moneys to
14 the funds, interest earned on moneys received by the department
15 and paid to the State Treasurer under this subchapter shall be
16 deposited into the funds. All moneys in the funds, including,
17 but not limited to, moneys credited to the funds under this
18 section, prior year encumbrances and the interest earned
19 thereon, shall not lapse or be transferred to any other fund,
20 but shall remain in the funds. Pending their disbursement,
21 moneys received on behalf of or deposited into the funds shall
22 be invested or reinvested as are other moneys in the custody of
23 the State Treasurer in the manner provided by law. All earnings
24 received from the investment or reinvestment of the moneys shall
25 be credited to the respective funds. The Auditor General shall
26 periodically audit the records of the department relative to its
27 duties under this section and shall furnish the results of such
28 audit to any county levying the sales and use tax under section
29 312 and to any municipality qualified under section 320.

30 Section 318. Disbursements.

1 (a) General rule.--On or before the tenth day of every
2 month, the State Treasurer shall make the disbursements on
3 behalf of the county imposing the tax out of the moneys which
4 are, as of the last day of the previous month, contained in the
5 respective county sales and use tax fund.

6 (b) Disbursement to counties.--The State Treasurer shall
7 disburse to a county imposing the tax authorized under section
8 312 an amount of money equal to 50% of the tax collected in that
9 county and remitted to the department and deposited in the
10 respective county sales and use tax fund. The county shall
11 deposit the revenue from the respective county sales and use tax
12 fund into the county general fund for disposition as provided
13 under section 701(a).

14 (c) Disbursement to municipalities.--The State Treasurer
15 shall, at the same time, disburse to the municipalities 50% of
16 the tax collected in their respective counties as provided in
17 section 320. Each municipality's portion shall be deposited in
18 the municipal general fund for disposition as provided in
19 section 701(b).

20 Section 319. Adoption of municipal resolutions.

21 (a) General rule.--No municipality shall be entitled to a
22 disbursement under section 318(c) unless one of the following
23 applies:

24 (1) Prior to enactment of the county ordinance, it
25 adopts a municipal resolution containing the statement:

26 We strongly urge the county to enact a county sales
27 and use tax and intend to accept disbursements of the
28 sales and use taxes collected.

29 Any municipality which does not enact a resolution in
30 compliance with this paragraph shall not be entitled to and

1 shall not receive any distribution from funds collected
2 during the first 24 months immediately following the initial
3 date of imposition of such tax.

4 (2) Prior to October 1 of any year after the enactment
5 of the county resolution, it adopts a municipal resolution
6 containing the statement:

7 We support the enactment by the county of the county
8 sales and use tax and strongly urge its continuation
9 and intend to accept disbursements of the sales and
10 use taxes collected.

11 (b) Delivery.--A certified copy of the municipal resolution
12 shall be delivered to the county commissioners, the department
13 and the State Treasurer on or before the enactment of the county
14 resolution or October 15 of any year thereafter, as the case may
15 be.

16 Section 320. Qualified municipalities.

17 (a) General rule.--The State Treasurer shall distribute, on
18 a weighted formula basis, to each municipality that qualifies
19 under subsection (c) the appropriate percentage of revenues
20 received from the county sales and use tax.

21 (b) Retention by county.--If a municipality fails to meet
22 the requirements of subsection (c), its disbursement shall be
23 included in the disbursement to the county under section 318(b).

24 (c) Qualifications.--Municipalities qualified to receive
25 disbursements under this section are municipalities located
26 within the county which adopt in a timely fashion the resolution
27 or petition required under section 319.

28 Section 320.1. Municipal sales and use tax initiative.

29 (a) General rule.--Whenever the governing body of a county
30 elects to impose a tax on personal income under section

1 322(b)(1) or a local tax on earned income under section 331(b),
2 at least a majority of the municipalities within that county can
3 require the governing body of the county to also impose the
4 sales and use tax as provided in section 312.

5 (b) Procedure.--

6 (1) Whenever any municipality of a county determines
7 that the governing body of that county has elected not to
8 impose a tax under section 312, that municipality may place
9 before the governing bodies of all the municipalities of that
10 county the following question:

11 Do you favor the imposition of a county sales and use
12 tax at the rate of 1% as provided in section 312 of
13 the Optional Local Tax Enabling Act?

14 (2) The affirmative votes of the governing bodies of
15 municipalities representing at least a majority of the
16 municipalities within the county shall be required to approve
17 the question.

18 (3) The governing body of the county, upon receipt of
19 certifications from the participating municipalities
20 indicating approval of the question shall, for the next
21 calendar year and thereafter, impose the tax authorized under
22 section 312, provided that approval of the electorate is
23 obtained pursuant to the provisions of section 303(b).

24 (4) Municipalities intending to receive proceeds from
25 the imposition of the tax shall also meet the requirements of
26 section 319, provided that municipalities voting
27 affirmatively under this subsection shall be deemed to meet
28 the requirements of section 319 for the year of initial
29 imposition.

1 under section 10 of the Local Tax Enabling Act, or otherwise by
2 law, as the collector of the county or municipality local
3 personal income tax. In the performance of the tax collection
4 duties under this subchapter, the designated tax officer shall
5 have all the same powers, rights, responsibilities and duties
6 for the collection of the taxes which may be imposed under the
7 Local Tax Enabling Act or as otherwise provided by law.

8 Section 324. Rules and regulations.

9 Taxes imposed under section 322 will be subject to the rules
10 and regulations adopted by the department pursuant to Article
11 III of the Tax Reform Code.

12 Section 325. Procedure and administration.

13 The governing body of the municipality or county, in order to
14 impose the tax authorized by section 322, shall adopt an
15 ordinance which shall refer to this subchapter. Prior to
16 adopting an ordinance imposing the tax authorized by section
17 322, the governing body shall give public notice of its intent
18 to adopt the ordinance in the manner provided by section 4 of
19 the Local Tax Enabling Act and shall conduct at least one public
20 hearing regarding the proposed adoption of the ordinance.

21 SUBCHAPTER D

22 EARNED INCOME AND NET PROFITS TAX

23 Section 331. Earned income and net profits tax.

24 (a) Municipalities.--In lieu of imposing the tax under
25 section 322, a municipality shall have the power to levy, assess
26 and collect a tax on the earned income and net profits of
27 resident individuals of the municipality up to a maximum rate of
28 1%, in increments of 0.25 of 1%. Any municipality which imposes
29 a tax under this subsection shall not impose any tax under
30 section 322.

(b) Counties.--

(1) Except as provided in paragraph (2), in lieu of imposing the tax under section 312, each county shall have the power and may levy, assess and collect a tax on the earned income and net profits of resident taxpayers of the county up to a maximum rate of 0.5% in increments of 0.25% of 1%. Any county which imposes a tax under this paragraph may not impose a tax under section 322.

(2) If the governing body of a county is required to also impose a sales and use tax under section 320.1(a), in addition to imposing a tax under section 312, the county shall have the power and may levy, assess and collect a tax on the earned income and net profits of resident taxpayers of the county up to a maximum rate of 0.5% in increments of 0.25%.

Section 332. Collections.

Any municipality or county imposing a tax under section 331 shall designate the tax officer who is appointed under section 10 of the Local Tax Enabling Act, or otherwise by law, as the collector of the earned income and net profits tax. In the performance of the tax collection duties under this subchapter, the designated tax officer shall have all the same powers, rights, responsibilities and duties for the collection of the taxes which may be imposed under the Local Tax Enabling Act or as otherwise provided by law.

Section 333. Rules and regulations.

Taxes imposed under section 331 will be subject to the rules and regulations pursuant to section 13 of the Local Tax Enabling Act.

Section 334. Procedure and administration.

1 The governing body of the municipality or county, in order to
2 impose the tax authorized by section 331, shall adopt an
3 ordinance which shall refer to this subchapter. Prior to
4 adopting an ordinance imposing the tax authorized by section
5 331, the respective governing body shall give public notice of
6 its intent to adopt the ordinance in the manner provided by
7 section 4 of the Local Tax Enabling Act, and shall conduct at
8 least one public hearing regarding the proposed adoption of the
9 ordinance.

10 SUBCHAPTER E

11 MUNICIPAL SERVICE TAX

12 Section 341. Municipal service tax.

13 (a) General rule.--Subject to the limitations established in
14 section 342, each municipality in which a taxpayer is employed
15 may levy, assess and collect a municipal service tax.

16 (b) Amount of tax.--A municipal service tax levied by a
17 municipality under an ordinance passed under the authority of
18 this act shall not exceed \$30.

19 (c) Situs for tax.--Subject to the limitations in section
20 342, the situs of a municipal service tax shall be the place of
21 employment.

22 Section 342. Multiple employment locations.

23 (a) Priority of claim.--In the event a person is engaged in
24 more than one occupation or an occupation which requires the
25 person to work in more than one municipality during the calendar
26 year, the priority of claim to collect the municipal service tax
27 shall be in the following order:

28 (1) The municipality in which a person maintains his
29 principal office or is principally employed.

30 (2) The municipality in which the person resides and

works if the tax is levied by that municipality.

(3) The municipality nearest in miles to the person's home in which the person is employed if the tax is levied by that municipality.

(b) Place of employment.--The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.

(c) Liability.--No person shall be required to pay more than \$30 in any calendar year without regard to the number of municipalities within which the person may be employed.

Section 343. Collection procedures.

(a) Collector.--Any municipality which imposes a tax under section 341 shall designate the tax officer who is appointed under section 10 of the Local Tax Enabling Act, or otherwise by law, as the collector of the municipality municipal services tax. In the performance of the tax collection duties under this subchapter, the designated tax officer shall have all the same powers, rights, responsibilities and duties for the collection of the taxes which may be imposed under the Local Tax Enabling Act, or otherwise by law.

(b) Employer withholding.--Any municipality imposing a municipal service tax shall have the power and may by ordinance require employers to withhold the municipal service tax from the compensation of employees. Any municipality which requires employer withholding shall follow the procedures pursuant to section 9 of the Local Tax Enabling Act.

SUBCHAPTERS F THROUGH I (RESERVED)

CHAPTER 5

CREDITS, EXEMPTIONS AND DEFERRALS

SUBCHAPTER A

1 CREDITS AND EXEMPTIONS

2 Section 501. Credits.

3 The provisions of section 14 of the Local Tax Enabling Act
4 shall be used to determine any credits under the provisions of
5 this act for any taxes imposed under section 322 on the earned
6 income portion of the personal income tax or under section 331.

7 Section 502. Low-income tax provisions.

8 The provisions of section 304 of the Tax Reform Code shall be
9 applied by any municipality or county which levies a tax under
10 section 322 or 331.

11 Section 503. Municipal service tax exemption.

12 Each municipality which levies a municipal service tax shall
13 have the power and may, by ordinance, exempt any person whose
14 total compensation is less than \$7,500 from the municipal
15 service tax.

16 Section 504. Regulations.

17 Each county or municipality may adopt regulations for the
18 processing of claims under sections 501, 502 and 503.

19 SUBCHAPTERS B THROUGH J (RESERVED)

20 CHAPTER 7

21 DISPOSITION OF TAX REVENUES

22 Section 701. Sales tax revenues.

23 (a) Counties.--In the fiscal year of implementation, each
24 county that imposes a sales and use tax under this act shall use
25 all revenues from the tax first to offset any lost revenue to
26 the county from the taxes prohibited under section 301(b) in an
27 amount equal to the revenue the county collected from the
28 prohibited taxes in the immediately preceding fiscal year;
29 second, to provide for an increase in budgeted revenues over the
30 preceding fiscal year in accordance with the amount specified in

1 the referendum question approved by the voters under section 303
2 and then to reduce the county real property tax by means of a
3 homestead exemption. The department shall provide to each county
4 that imposes a sales and use tax an estimate of the total dollar
5 amount of revenue that the county can expect to receive from the
6 county's share of the 1% county sales and use tax for the fiscal
7 year of implementation. The department may charge the county for
8 the actual costs of calculating the requested estimates.
9 Guidelines concerning the costs shall be published in the
10 Pennsylvania Bulletin. In the event the actual amount of sales
11 and use tax revenue received by a county is less than the
12 estimate of sales and use tax revenue provided by the
13 department, the county may increase its real property tax
14 millage rate to the level necessary to offset any shortfall
15 resulting from an overestimation of sales and use tax revenue,
16 as certified by the department, in the fiscal year of
17 implementation. Such increase shall not be subject to the
18 provisions of section 304(a).

19 (b) Municipalities under Chapter 3.--

20 (1) All sales and use tax revenues received by any
21 municipality which has elected to participate under sections
22 303 and 319 shall be used to reduce the municipal real
23 property tax by means of a homestead exemption.

24 (2) A municipality which has elected to proceed only
25 under section 319 shall use the sales and use tax revenues
26 received to reduce or eliminate the real property tax or any
27 taxes prohibited under section 301(b).

28 Section 702. Income tax and municipal service tax revenues.

29 (a) Municipalities.--The disposition of revenue from an
30 income tax or municipal service tax or an increase in the rate

1 of an income tax or municipal service tax imposed by a
2 municipality under the authority of this act shall occur in the
3 following manner:

4 (1) For the fiscal year of implementation of a newly
5 imposed income tax or municipal service tax, all revenues
6 received by a municipality shall first be used to offset any
7 lost revenue to the municipality from the taxes prohibited
8 under section 301(b) in an amount equal to the revenue the
9 municipality collected from the prohibited taxes in the
10 immediately preceding fiscal year; second, to provide for an
11 increase in budgeted revenues over the preceding fiscal year
12 in accordance with the amount specified in the referendum
13 question approved by the voters under section 303 and then to
14 reduce the municipal real property tax by means of a
15 homestead exemption.

16 (2) For the fiscal year of implementation of an increase
17 in the rate of income tax or increase in the rate of the
18 municipal service tax, all revenues received by a
19 municipality in excess of current revenue plus the percentage
20 increase in the Statewide average weekly wage or 5%,
21 whichever is less, shall be used to reduce the municipal real
22 property tax by means of a homestead exemption.

23 (b) Counties.--The disposition of revenue from an income tax
24 or an increase in the rate of an income tax imposed by a county
25 under the authority of this act shall occur in the following
26 manner:

27 (1) For the fiscal year of implementation of a newly
28 imposed income tax, all revenues received by a county shall
29 first be used to offset any lost revenue to the county from
30 the taxes prohibited under section 301(b) in an amount equal

1 to the revenue the county collected from the prohibited taxes
2 in the immediately preceding fiscal year; second, to provide
3 for an increase in budgeted revenues over the preceding
4 fiscal year in accordance with the amount specified in the
5 referendum question approved by the voters under section 303
6 and then to reduce the county real property tax by means of a
7 homestead exemption.

8 (2) For the fiscal year of implementation of an increase
9 in the rate of income tax, all revenues received by a county
10 in excess of current revenue plus the percentage increase in
11 the Statewide average weekly wage or 5%, whichever is less,
12 shall be used to reduce the county real property tax by means
13 of a homestead exemption.

14 (c) Revenue estimates of department.--The department shall
15 provide to each taxing jurisdiction that imposes an income tax
16 under this act an estimate of the total dollar amount of revenue
17 that the taxing jurisdiction can expect to receive from an
18 income tax for the fiscal year of implementation. The department
19 may charge the taxing jurisdiction for the actual costs of
20 calculating the requested estimates. Guidelines concerning the
21 costs shall be published in the Pennsylvania Bulletin. In the
22 event the actual dollar amount of income tax revenue received by
23 a taxing jurisdiction is less than the estimate of income tax
24 revenue provided by the department, the taxing jurisdiction may
25 increase its real property tax millage rate to the level
26 necessary to offset any shortfall resulting from an
27 overestimation of income tax revenue, as certified by the
28 department, in the fiscal year of implementation. Such increase
29 shall not be subject to the provisions of section 304(a).

30 Section 703. Revenue limitation exceptions.

1 (a) Exceptions listed.--The limitations in sections 701 and
2 702 may be waived, but only to the degree necessary, in the
3 following cases:

4 (1) To respond to or recover from an emergency or
5 disaster declared pursuant to 35 Pa.C.S. Pt. V (relating to
6 emergency management services), for the duration of the
7 emergency or duration of the disaster or for the costs of the
8 recovery from the emergency or disaster.

9 (2) To implement a court order or an administrative
10 decision of a Federal or State agency. In instances where the
11 tax increase is necessary to respond to a court order or an
12 administrative decision of a Federal or State agency
13 requiring a temporary increase in local expenditures, the
14 rate increase shall be rescinded following fulfillment of the
15 court order or administrative decision.

16 (3) To pay interest and principal on any indebtedness
17 incurred under 53 Pa.C.S. Pt. VII Subpt. B (relating to
18 indebtedness and borrowing). However, in no case may a taxing
19 jurisdiction incur additional debt under this paragraph,
20 except for the refinancing of existing debt, including the
21 payment of costs and expenses related to such refinancing and
22 the establishment or funding of appropriate debt service
23 reserves.

24 (4) Taxes levied under section 607(f) of the act of
25 December 18, 1984 (P.L.1005, No.205), known as the Municipal
26 Pension Plan Funding Standard and Recovery Act, or levied to
27 pay increases in pension fund requirements which are in
28 excess of the annual average increase over the immediately
29 preceding five fiscal years.

30 (5) To increase revenues when actual and projected local

1 tax revenues, including any share of a county sales and use
2 tax, decline from the immediately preceding year but only to
3 the extent of the revenue decline.

4 (6) To respond to conditions that pose a threat of
5 immediate harm or injury to the students, staff or residents
6 of the county or municipality.

7 (7) Special purpose tax levies approved by the
8 electorate.

9 (8) To respond to a Federal or State statute, regulation
10 or order adding to or significantly altering responsibilities
11 and duties or requiring expenditure of county or local funds
12 to the extent not funded by the Federal or State Government.
13 This provision shall apply only to a Federal or State
14 statute, regulation or order taking effect after the
15 effective date of this act.

16 (b) Court action.--Prior to any waiver under subsection
17 (a)(1), (4), (5), (6) or (8), approval is required by the court
18 of common pleas in the judicial district in which the governing
19 body is located. The following shall apply to any proceedings
20 instituted under this subsection:

21 (1) The governing body must prove by a preponderance of
22 evidence the necessity for the waiver.

23 (2) The court may retain continuing jurisdiction in
24 these cases and may, on its own motion or on petition of an
25 interested party, revoke approval for the waiver.

26 (c) Distressed municipality or county.--This section shall
27 not be construed to prohibit any municipality or county declared
28 distressed under the act of July 10, 1987 (P.L.246, No.47),
29 known as the Municipalities Financial Recovery Act, from
30 petitioning the court of common pleas for a tax increase in

1 accordance with section 123(c) of the Municipalities Financial
2 Recovery Act.

3 (d) Standing.--Any taxpayer or business shall have standing
4 as a party to a proceeding under this section as long as the
5 taxpayer or business resides within or pays real property taxes
6 to the taxing jurisdiction of the governing body instituting the
7 action.

8 CHAPTER 9

9 REGISTER FOR CERTAIN TAXES

10 Section 901. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Department." The Department of Community and Economic
15 Development of the Commonwealth.

16 Section 902. Register for taxes under this act.

17 (a) General rule.--It shall be the duty of the department to
18 have available an official continuing register supplemented
19 annually of all sales and use, local personal income, earned
20 income and net profits and municipal service taxes levied under
21 this act.

22 (b) Contents of register.--The register and its supplements
23 shall list:

24 (1) The counties or municipalities levying local
25 personal income tax, earned income and net profits tax,
26 municipal service tax or sales and use tax.

27 (2) The rate of tax as stated in the ordinance levying
28 the tax.

29 (3) The rate on taxpayers.

30 (4) The name and address of the tax officer responsible

1 for administering the collection of the tax and from whom
2 information, forms for reporting and copies of rules and
3 regulations are available.

4 Section 903. Information for register.

5 Information for the register shall be furnished by the chief
6 clerk or secretary of each county or municipality to the
7 department in such manner and on such forms as the department
8 may prescribe. The information must be received by the
9 department no later than July 15 of each year to show new tax
10 enactments, repeals and changes. Failure to comply with this
11 date for filing may result in the omission of the tax levy from
12 the register for that year. Failure of the department to receive
13 information of taxes continued without change may be construed
14 by the department to mean that the information contained in the
15 previous register remains in force.

16 Section 904. Availability and effective period of register.

17 The department shall have the register, with such annual
18 supplements as may be required by new tax enactments, repeals or
19 changes, available upon request no later than August 15 of each
20 year. The effective period for each register shall be from July
21 1 of the year in which it is issued to June 30 of the following
22 year.

23 Section 905. Effect of nonfiling.

24 Employers shall not be required by any ordinance to withhold
25 from the compensation of their employees any local personal
26 income tax, earned income and net profits tax or municipal
27 service tax imposed under the provisions of this act which is
28 not listed in the register or to make reports of compensation in
29 connection with taxes not so listed. If the register is not
30 available by August 15, the register of the previous year shall

1 continue temporarily in effect for an additional period of not
2 more than one year.

3 Section 906. Effect of chapter on liability of taxpayer.

4 The provisions of this chapter shall not affect the liability
5 of any taxpayer for taxes lawfully imposed under this act.

6 CHAPTER 51

7 MISCELLANEOUS PROVISIONS

8 Section 5101. Effective date.

9 This act shall take effect January 1, 1999.