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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 25

Session of  
2005

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INTRODUCED BY METCALFE, BENNINGHOFF, CREIGHTON, FORCIER,  
HERSHEY, LEH, SCAVELLO, THOMAS, WILT AND HANNA,  
JANUARY 26, 2005

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REFERRED TO COMMITTEE ON FINANCE, JANUARY 26, 2005

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AN ACT

1 Imposing an additional sales and use tax and personal income  
2 tax; prohibiting the imposition of real property tax by  
3 school districts and municipalities; establishing the School  
4 Property Tax Elimination Fund; and providing for school  
5 district and municipality tax options and for duties of the  
6 Department of Revenue and the Legislative Budget and Finance  
7 Committee.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Real Property  
12 Tax Elimination Act.

13 Section 2. Definitions.

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

17 "Base year." The first fiscal year of a school district,  
18 municipality or county beginning after June 30, 2005.

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

20 "Fund." The School Property Tax Elimination Fund established

1 under section 5 (relating to School Property Tax Elimination  
2 Fund).

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

8 "Real property tax increase." An increase in real property  
9 taxes resulting from a millage increase, modification in the  
10 predetermined ratio or countywide reassessment.

11 Section 3. Real property tax freeze.

12 No school district or municipality shall authorize a real  
13 property tax increase in any fiscal year beginning after June  
14 30, 2005.

15 Section 4. Real property tax reduction.

16 (a) School districts.--A school district shall be subject to  
17 the following with respect to the levying, assessment and  
18 collection of real property tax:

19 (1) For the first fiscal year beginning after June 30,  
20 2006, a school district shall reduce in a uniform manner by  
21 one-third the base-year amount of its real property taxes.

22 (2) For the first fiscal year beginning after June 30,  
23 2007, a school district shall reduce in a uniform manner by  
24 two-thirds the base-year amount of its real property taxes.

25 (3) For the first fiscal year beginning after June 30,  
26 2008, and each fiscal year thereafter, no school district  
27 shall have any power or authority to levy, assess or collect  
28 real property taxes. This paragraph shall not apply to the  
29 collection of delinquent taxes.

30 (b) Municipalities.--Municipalities shall be subject to the

1 following with respect to the levying, assessment and collection  
2 of real property tax:

3 (1) For the first fiscal year beginning after December  
4 31, 2008, each municipality shall reduce in a uniform manner  
5 by one-third the base-year amount of its real property tax.

6 (2) For the first fiscal year beginning after December  
7 31, 2009, each municipality shall reduce in a uniform manner  
8 by two-thirds the base-year amount of its real property tax.

9 (3) For the first fiscal year beginning after December  
10 31, 2010, and each fiscal year thereafter, no municipality  
11 shall have any power or authority to levy, assess or collect  
12 real property taxes. This paragraph shall not apply to the  
13 collection of delinquent taxes.

14 Section 5. School Property Tax Elimination Fund.

15 (a) Establishment.--

16 (1) The School Property Tax Elimination Fund is  
17 established in the State Treasury. The State Treasurer shall  
18 be custodian of the fund, which shall be subject to the  
19 provisions of law applicable to funds listed in section 302  
20 of the act of April 9, 1929 (P.L.343, No.176), known as The  
21 Fiscal Code.

22 (2) Taxes imposed under sections 6 (relating to  
23 imposition of sales and use tax) and 8 (relating to  
24 imposition of personal income tax) shall be collected by the  
25 department and paid to the State Treasurer and, along with  
26 interest and penalties, shall be credited to the fund not  
27 less frequently than every two weeks. During any period prior  
28 to the credit of moneys to the fund, interest earned on  
29 moneys received by the department and paid to the State  
30 Treasurer under this act shall be deposited into the fund.

1           (3) All moneys in the fund, including, but not limited  
2 to, moneys credited to the fund under this section, prior  
3 year encumbrances and the interest earned thereon, shall not  
4 lapse or be transferred to any other fund, but shall remain  
5 in the fund and shall be used exclusively as provided in this  
6 section.

7           (4) Pending their disbursement, moneys received on  
8 behalf of or deposited into the fund shall be invested or  
9 reinvested as are other moneys in the custody of the State  
10 Treasurer in the manner provided by law. All earnings  
11 received from the investment or reinvestment of the moneys  
12 shall be credited to the fund.

13       (b) Disbursements.--On or before the tenth day of every  
14 month, the State Treasurer shall make disbursements to school  
15 districts out of the moneys which are contained in the fund on  
16 the last day of the previous month. Distributions to school  
17 districts shall be based on the amount of real property tax  
18 collected by each school district during the base year as  
19 follows:

20           (1) During the first fiscal year beginning after June  
21 30, 2006, an amount equivalent to one-third of the real  
22 property tax revenues collected by the school district during  
23 the base year shall be distributed to the school district.

24           (2) During the first fiscal year beginning after June  
25 30, 2007, an amount equivalent to two-thirds of the real  
26 property tax revenues collected by the school district during  
27 the base year shall be distributed to the school district.

28           (3) During the first fiscal year beginning after June  
29 30, 2008, and each fiscal year thereafter, an amount  
30 equivalent to the total real property tax revenues collected

by the school district during the base year shall be distributed to the school district.

(c) Transfer of portion of surplus.--In any fiscal year in which the Secretary of the Budget certifies that there is a surplus of operating funds in the General Fund, 75% of such surplus shall be deposited by the end of the next succeeding quarter into the School Property Tax Elimination Fund.

#### Section 6. Imposition of sales and use tax.

(a) Sales tax.--There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined in Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, a tax on the purchase price. The tax shall be collected by the vendor from the purchaser and shall be paid over to the Commonwealth as provided in Article II of the Tax Reform Code of 1971.

(b) Use tax.--There is hereby imposed upon the use of tangible personal property purchased at retail and on services purchased at retail as defined in Article II of the Tax Reform Code of 1971 a tax on the purchase price. The tax shall be paid over to the Commonwealth by the person who makes the use. The use tax imposed under this subsection shall not be paid over to the Commonwealth by any person who has paid the tax imposed by subsection (a) or has paid the tax imposed by this subsection to the vendor with respect to the use.

(c) Rate.--The tax authorized by subsections (a) and (b) shall be imposed at the following rates:

(1) For the period July 1, 2006, to June 30, 2007, 1%.

(2) For the period July 1, 2007, to June 30, 2008, 2%.

(3) After June 30, 2008, 3%.

(d) Construction.--The sales and use tax imposed by this act

1 shall be in addition to any tax imposed under Article II of the  
2 Tax Reform Code of 1971. The provisions of Article II of the Tax  
3 Reform Code of 1971 shall apply to the tax.

4 Section 7. Computation of sales and use tax.

5 (a) One percent rate.--The amount of tax imposed by section  
6 6 (relating to imposition of sales and use tax) shall be  
7 computed in the manner set forth in section 503(e)(2) of the act  
8 of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
9 Intergovernmental Cooperation Authority Act for Cities of the  
10 First Class, for a 1% tax rate.

11 (b) Two percent rate.--The amount of tax imposed by section  
12 6 shall be computed as follows for a 2% tax rate:

13 (1) If the purchase price is 30¢ or less, no additional  
14 tax shall be collected.

15 (2) If the purchase price is 31¢ or more but less than  
16 51¢, 1¢ shall be collected.

17 (3) If the purchase price is 51¢ or more but less than  
18 \$1.01, 2¢ shall be collected.

19 (4) If the purchase price is more than \$1, 2% of each  
20 dollar of purchase price plus the above bracket charges upon  
21 any fractional part of a dollar in excess of even dollars  
22 shall be collected.

23 (c) Three percent rate.--The amount of tax imposed by  
24 section 6 shall be computed as follows for a 3% tax rate:

25 (1) If the purchase price is 33¢ or less, no additional  
26 tax shall be collected.

27 (2) If the purchase price is 34¢ or more but less than  
28 56¢, 1¢ shall be collected.

29 (3) If the purchase price is 56¢ or more but less than  
30 78¢, 2¢ shall be collected.

(4) If the purchase price is 78¢ or more but less than \$1.01, 3¢ shall be collected.

(5) If the purchase price is more than \$1, 3% of each dollar of purchase price plus the above bracket charges upon any fractional part of a dollar in excess of even dollars shall be collected.

Section 8. Imposition of personal income tax.

(a) Residents.--Every resident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income enumerated in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, a tax upon each dollar of income received by that resident during that resident's taxable year at the following rates:

(1) 0.5% for the second half of the taxable year commencing with or within calendar year 2006 through the first half of the taxable year commencing with or within calendar year 2007;

(2) 1% for the second half of the taxable year commencing with or within calendar year 2007 through the first half of the taxable year commencing with or within calendar year 2008;

(3) 1.5% for the second half of the taxable year commencing with or within calendar year 2008 through the first half of the taxable year commencing with or within calendar year 2009; and

(4) for the second half of the taxable year commencing with or within calendar year 2009, and each taxable year thereafter, the rate established by the department under subsection (c), not to exceed 1.5%.

(b) Nonresidents.--Every nonresident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income hereinafter enumerated in section 303 of the Tax Reform Code of 1971 from sources within this Commonwealth, a tax upon each dollar of income received by that nonresident during that nonresident's taxable year at the following rates:

(1) 0.5% for the second half of the taxable year commencing with or within calendar year 2006 through the first half of the taxable year commencing with or within calendar year 2007;

(2) 1% for the second half of the taxable year commencing with or within calendar year 2007 through the first half of the taxable year commencing with or within calendar year 2008;

(3) 1.5% for the second half of the taxable year commencing with or within calendar year 2008 through the first half of the taxable year commencing with or within calendar year 2009; and

(4) for the second half of the taxable year commencing with or within calendar year 2009 and each taxable year thereafter, the rate established by the department under subsection (c), not to exceed 1.5%.

(c) Rates fixed annually by department.--Beginning with the second half of the taxable year commencing with or within the calendar year 2009, and each taxable year thereafter, the department shall annually establish the rate of tax under this section, uniform for residents and nonresidents, such that the amounts due to be disbursed to school districts in accordance with section 5(b) (relating to School Property Tax Elimination



1 Fund) are available for payment. The department shall publish in  
2 the Pennsylvania Bulletin no later than June 1 of each year the  
3 rate of tax which shall take effect July 1 of each year.

4 (d) Construction.--The personal income tax imposed by this  
5 act shall be in addition to any tax imposed by the Commonwealth  
6 under Article III of the Tax Reform Code of 1971. The provisions  
7 of Article III of the Tax Reform Code of 1971 shall apply to the  
8 tax.

9 Section 9. School district tax options.

10 (a) General rule.--A school district may generate additional  
11 revenue to offset revenue lost as a result of the implementation  
12 of this act by using any combination of the following:

13 (1) An increase in the rate of its tax on earned income  
14 beyond maximum rates provided by law.

15 (2) The imposition of an earned income tax under the  
16 provisions of section 13 of the act of December 31, 1965  
17 (P.L.1257, No.511), known as The Local Tax Enabling Act.

18 (3) The imposition of a personal income tax.

19 (b) Resolution required.--Taxes levied by a school district  
20 shall be passed by resolution by the board of school directors  
21 of the school district under the authority of this act.

22 (c) Increases subject to referendum.--Except as provided in  
23 subsection (e), no school district may implement or increase a  
24 tax under subsection (a) without first obtaining the approval of  
25 the electorate of the affected school district in a referendum  
26 at the primary election immediately preceding the fiscal year of  
27 the proposed tax or tax increase.

28 (d) Disapproval.--Whenever the electorate fails to approve  
29 the proposed referendum question to implement a tax or increase  
30 the rate of a tax under subsection (a), the school district

1 shall be limited to the taxes and rates in effect prior to the  
2 referendum.

3 (e) Referendum exception.--

4 (1) No referendum shall be required under subsection (c)  
5 if:

6 (i) there is an immediate threat of serious physical  
7 harm or injury to the students, staff or residents of the  
8 school district; and

9 (ii) the court of common pleas in the judicial  
10 district in which the school district is located approves  
11 the referendum exception.

12 (2) The court shall determine the appropriate duration  
13 of the tax imposition or increase and may retain continuing  
14 jurisdiction. The court may, on its own motion or on petition  
15 of an interested party, revoke approval for or order  
16 rescission of a tax increase imposed under this section.

17 (f) Standing.--A person shall have standing as a party to a  
18 proceeding under this section as long as the person resides  
19 within or pays earned income taxes to the taxing jurisdiction of  
20 the school district instituting the action.

21 Section 10. Municipality tax options.

22 (a) General rule.--A municipality may offset revenues lost  
23 as a direct result of the phaseout of its authority to impose a  
24 tax on real property by using any combination of the following:

25 (1) An increase in the rate of its tax on earned income  
26 beyond maximum rates provided by law.

27 (2) The imposition, by a county, of an earned income tax  
28 under the provisions of section 13 of the act of December 31,  
29 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

30 (3) The imposition of a personal income tax.

(b) Ordinance required.--Taxes levied by a municipality shall be by ordinance passed under the authority of this act.

(c) Increases subject to referendum.--Except as provided in subsection (e), no municipality may levy or increase a tax to raise revenue beyond that required as an offset under subsection (a) without first obtaining the approval of the electorate of the affected municipality in a referendum at the primary election immediately preceding the fiscal year of the proposed tax increase.

(d) Disapproval.--Whenever the electorate fails to approve the proposed referendum question to increase the tax or rate of a tax under subsection (a), the municipality shall be limited to the taxes and rates in effect prior to the referendum.

(e) Referendum exception.--

(1) No referendum shall be required under subsection (c) if:

(i) there is an immediate threat of serious physical harm or injury to the residents of the municipality; and

(ii) the court of common pleas in the judicial district in which the municipality is located approves the referendum exception.

(2) The court shall determine the appropriate duration of the tax imposition or increase and may retain continuing jurisdiction. The court may, on its own motion or on petition of an interested party, revoke approval for or order rescission of a tax imposed or increased under this section.

(f) Standing.--A person shall have standing as a party to a proceeding under this section as long as the person resides within or pays earned income taxes to the taxing jurisdiction of the municipality instituting the action.

1 Section 11. Collection of tax.

2 Any tax imposed by a school district or municipality under  
3 section 9 (relating to school district tax options) or 10  
4 (relating to municipality tax options) shall be collected by the  
5 department in the same manner authorized for the tax imposed  
6 under Article III of the act of March 4, 1971 (P.L.6, No.2),  
7 known as the Tax Reform Code of 1971, and shall be transferred  
8 by the State Treasurer to the school district or municipality  
9 that imposed it.

10 Section 12. Annual review of budget by Legislative Budget and  
11 Finance Committee.

12 (a) Duty to conduct annual review.--The Legislative Budget  
13 and Finance Committee shall conduct an annual review of the  
14 budget submitted by the Governor to the General Assembly in  
15 accordance with law. The purpose of the review shall be to  
16 identify efficiency improvements in the programs that receive  
17 appropriations through the General Appropriation Act and to  
18 calculate the amount of savings to the General Fund from those  
19 improvements. The Legislative Budget and Finance Committee shall  
20 report its findings and recommendations from the annual review  
21 in a timely manner to the General Assembly.

22 (b) Legislative intent.--It is the intent of the General  
23 Assembly that the savings calculated and reported by the  
24 Legislative Budget and Finance Committee under this section  
25 shall appear as a line item in the General Appropriation Act by  
26 appropriating an amount equal to those savings for transfer from  
27 the General Fund to the School Property Tax Elimination Fund.

28 Section 13. Effective date.

29 This act shall take effect immediately.