

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1275 Session of  
2007

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SWANGER, MUSTIO AND PICKETT, NOVEMBER 14, 2007

REFERRED TO COMMITTEE ON APPROPRIATIONS, NOVEMBER 14, 2007

AN ACT

1 Providing for tax levies and information related to taxes;  
2 authorizing the imposition of a personal income tax or an  
3 earned income tax by a school district subject to voter  
4 approval; providing for imposition of and exclusions from a  
5 sales and use tax for education; establishing the Public  
6 Transportation Reserve Fund; providing for increase to the  
7 personal income tax and realty transfer tax, for certain  
8 licenses, for hotel occupancy tax, for procedure and  
9 administration of the tax, for basic education funding for  
10 2006-2007 fiscal year, for expiration of authority to issue  
11 certain debt, for reporting by local government units of debt  
12 outstanding and for assumption of certain debt by the  
13 Commonwealth; establishing the Education Operating Fund and  
14 the School District Grant and Incentive Programs Fund;  
15 providing for disbursements from these funds and for  
16 transfers from the Property Tax Relief Fund to the Education  
17 Operating Fund; establishing the School Financing Authority  
18 and providing for its powers and duties; providing for  
19 certain rebates and assistance to senior citizens; adding  
20 provisions relating to school district fiscal efficiency;  
21 establishing the School Equity Capital Construction Fund and  
22 the School Equity Distribution Task Force; and repealing  
23 certain provisions of The Local Tax Enabling Act, sales and  
24 use tax provisions of the Tax Reform Code of 1971 and  
25 provisions relating to senior citizens property tax and rent  
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12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 CHAPTER 1

15 PRELIMINARY PROVISIONS

16 Section 101. Short title.

17 This act shall be known and may be cited as the School  
18 Property Tax Elimination Act.

19 Section 102. Definitions.

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

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

24 "Education Operating Fund." The Education Operating Fund  
25 established in section 1302.

26 "Fiscal year." The fiscal year of the Commonwealth beginning  
27 on July 1 and ending on June 30 of the immediately following  
28 calendar year.

29 "Governing body." The board of school directors of a school  
30 district, except that the term shall mean the city council of a

city of the first class for purposes of the levy and collection of any tax in a school district of the first class.

"Internal Revenue Code of 1986." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 166).

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

"Public School Code of 1949." The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

"School district." A school district of the first class, first class A, second class, third class or fourth class, including any independent school district. For purposes of the levy, assessment and collection of any tax in a school district of the first class, the term shall include the City Council.

"School per capita tax." The tax authorized pursuant to section 679 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949,

"Secretary." The Secretary of Revenue of the Commonwealth.

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

### CHAPTER 3

#### PERSONAL INCOME TAX

##### SUBCHAPTER A

#### SCHOOL DISTRICT INCOME TAX

##### Section 301. Scope.

This chapter authorizes school districts to levy, assess and collect a personal income tax as a means of abolishing property taxation by the school district.

##### Section 302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Association." A partnership, limited partnership or other  
3 unincorporated group of two or more persons.

4 "Business." An enterprise, activity, profession or other  
5 undertaking of an unincorporated nature conducted for profit or  
6 ordinarily conducted for profit whether by a person, association  
7 or other entity.

8 "Compensation." The classes of income included within the  
9 definition of "compensation" set forth in section 301 of the act  
10 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
11 1971, and upon which are imposed a personal income tax by the  
12 Commonwealth.

13 "Corporation." A corporation or joint stock association  
14 organized under the laws of the United States or the  
15 Commonwealth of Pennsylvania or any other state, territory,  
16 foreign country or dependency.

17 "Current year." The calendar year or fiscal year for which a  
18 tax is levied.

19 "Domicile."

20 (1) The place where a person lives and has the person's  
21 permanent home and to which the person has the intention of  
22 returning whenever the person is absent. Actual residence is  
23 not necessarily domicile because domicile is the fixed place  
24 of abode which, in the intention of the taxpayer, is  
25 permanent rather than transitory.

26 (2) Domicile is the voluntarily fixed place of  
27 habitation of a person, not for a mere special or limited  
28 purpose, but with the present intention of making a permanent  
29 home, until some event occurs to induce the person to adopt  
30 some other permanent home.

1           (3) In the case of a business or association, the  
2       domicile is any place where the business or association is  
3       conducting or engaging in a business for profit within a  
4       school district.

5       "Employer." A person, association, corporation, governmental  
6       unit or other entity employing one or more persons, other than  
7       domestic servants, for compensation.

8       "Nonresident." A person, association or other entity  
9       domiciled outside a school district.

10       "Person" or "individual." A natural person.

11       "Personal income." The classes of income enumerated in  
12       section 303 of the act of March 4, 1971 (P.L.6, No.2), known as  
13       the Tax Reform Code of 1971, and on which is imposed a personal  
14       income tax by the Commonwealth.

15       "Political subdivision." A school district.

16       "Preceding year." The calendar year or fiscal year before a  
17       current year.

18       "Resident." A person, association, corporation or other  
19       entity:

20           (1) living in or maintaining a permanent or fixed place  
21       of abode in a school district; or

22           (2) conducting or engaging in a business for profit  
23       within a school district.

24       "Succeeding year." The calendar year or fiscal year  
25       following a current year.

26       "Tax officer." The person, public employee or private agency  
27       designated by a governing body to collect and administer a tax  
28       imposed under this chapter, and the treasurer of a school  
29       district of the first class A.

30       "Taxpayer." A person, association or other entity required

1 under this chapter to file a tax return or to pay a tax.

2 Section 303. Preemption.

3 No act of the General Assembly shall vacate or preempt any  
4 resolution passed or adopted under the authority of this  
5 chapter, or any other act, providing authority for the  
6 imposition of a tax by a school district, unless the act of the  
7 General Assembly expressly vacates or preempts the authority to  
8 pass or adopt the resolutions.

9 Section 304. Personal income tax authorization.

10 (a) School districts.--Except as prohibited under Chapter  
11 11, each school district shall have the power and may, by  
12 resolution, levy, assess and collect or provide for the levying,  
13 assessment and collection of a tax for general revenue purposes  
14 at a rate as it shall determine on personal income of the  
15 residents of the school district. A school district may only  
16 levy or increase the rate of personal income tax when that  
17 school district complies with the provisions of subsection (b).

18 (b) Adoption of referendum.--

19 (1) In order to levy a personal income tax under this  
20 chapter, a governing body shall use the procedures set forth  
21 in paragraphs (2), (3), (4), (5), (6) and (7).

22 (2) (i) Subject to the notice and public hearing  
23 requirements of paragraph (7), a governing body may levy  
24 the personal income tax under this chapter only by  
25 obtaining the approval of the electorate of the affected  
26 school district in a public referendum at only the  
27 municipal election preceding the fiscal year when the  
28 personal income tax will be initially imposed or the rate  
29 increased.

30 (ii) The referendum question must state the initial

1 rate of the proposed personal income tax, the reason for  
2 the tax and the amount of proposed budgeted revenue  
3 growth, if any, in the first fiscal year following  
4 adoption of the referendum.

5 (iii) The question shall be in clear language that  
6 is readily understandable by a layperson. For the purpose  
7 of illustration, a referendum question may be framed as  
8 follows:

9 Do you favor the imposition of a personal income tax  
10 of X%?

11 (iv) A nonlegal interpretative statement must  
12 accompany the question in accordance with section 201.1  
13 of the act of June 3, 1937 (P.L.1333, No.320), known as  
14 the Pennsylvania Election Code, that includes the  
15 following: the initial rate of the personal income tax  
16 imposed under this chapter, the estimated revenues to be  
17 derived from the initial rate of the personal income tax  
18 imposed under this chapter.

19 (3) In the event a school district is located in more  
20 than one county, petitions under this section shall be filed  
21 with the election officials of the county in which the  
22 administrative offices of the school district are located.

23 (4) The election officials who receive a petition shall  
24 perform all administrative functions in reviewing and  
25 certifying the validity of the petition and conduct all  
26 necessary communications with the school district.

27 (5) (i) If the election officials of the county who  
28 receive the petition certify that it is sufficient under  
29 this section and determine that a question should be  
30 placed on the ballot, the decision shall be communicated

1 to election officials in any other county in which the  
2 school district is also located.

3 (ii) Election officials in the other county or  
4 counties shall cooperate with election officials of the  
5 county that receives the petition to ensure that an  
6 identical question is placed on the ballot at the same  
7 election throughout the entire school district.

8 (6) Election officials from each county involved shall  
9 independently certify the results from their county to the  
10 governing body.

11 (7) (i) In order to levy the tax under this section,  
12 the governing body shall adopt a resolution which shall  
13 refer to this chapter prior to placing a question on the  
14 ballot.

15 (ii) Prior to adopting a resolution imposing the tax  
16 authorized by this section, the governing body shall give  
17 public notice of its intent to adopt the resolution in  
18 the manner provided by section 4 of The Local Tax  
19 Enabling Act and shall conduct at least one public  
20 hearing regarding the proposed adoption of the  
21 resolution.

22 Section 305. Continuity of tax.

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

27 Section 306. Exemption of low-income persons.

28 (a) Low-income exemption.--Each school district shall exempt  
29 any person who qualifies under the provisions of section 304 of  
30 the Tax Reform Code of 1971 from payment of any or all of the

1 tax imposed under section 304.

2 (b) Procedures.--Each school district shall adopt procedures  
3 for the processing of claims for these exemptions.

4 Section 307. Collection of personal income tax.

5 The tax officer shall collect all personal income tax imposed  
6 by a school district.

7 Section 308. Limitation on assessment.

8 No assessment may be made of any personal income tax imposed  
9 under this chapter more than five years after the date on which  
10 the tax should have been paid except where a fraudulent return  
11 or no return has been filed.

12 Section 309. Distress and sale of property of taxpayer.

13 (a) General rule.--In case of the neglect or refusal of any  
14 person, association or corporation to make payment of the amount  
15 of any personal income tax due after two months from the date of  
16 the tax notice, the tax officer shall levy the amount of the  
17 tax, penalty, interest and costs thereon, not exceeding costs  
18 and charges allowed constables for similar services by distress  
19 and sale of the goods and chattels of the delinquent taxpayer,  
20 wherever located, after giving at least ten days' public notice  
21 of the sale by one advertisement in a newspaper of general  
22 circulation published in the county.

23 (b) Effect on return.--No failure to demand or collect any  
24 taxes by distress and sale of goods and chattels shall  
25 invalidate any return made, lien filed for nonpayment of taxes  
26 or any tax sale for the collection of taxes.

27 Section 310. Collection of delinquent taxes from employers.

28 (a) General rule.--The tax officer shall demand, receive and  
29 collect from all employers employing persons owing delinquent  
30 personal income taxes or having in possession unpaid



1 compensation belonging to any person or persons owing delinquent  
2 personal income taxes on the presentation of a written notice  
3 and demand certifying that the information contained in the  
4 notice and demand is true and correct and containing the name of  
5 the taxpayer and the amount of tax due.

6 (b) Response to notice.--On the presentation of the written  
7 notice and demand, the employer shall deduct from the  
8 compensation of the employees then owing, or thereafter due, a  
9 sum sufficient to pay the amount of the delinquent personal  
10 income taxes, interest, penalty and costs shown on the written  
11 notice or demand, and shall pay the same to the tax officer by  
12 which the delinquent tax was levied within 60 days after the  
13 notice was given.

14 (c) Limitation on deduction.--No more than 10% of the  
15 compensation of the delinquent taxpayer may be deducted at any  
16 one time for delinquent personal income taxes, penalty, interest  
17 and costs.

18 (d) Deduction for costs.--The employer shall be entitled to  
19 deduct from the moneys collected from each employee the costs  
20 incurred from the extra bookkeeping necessary to record the  
21 transactions, not exceeding 2% of the amount collected and paid  
22 over to the tax officer.

23 (e) Forfeiture.--If the employer fails to deduct the amount  
24 of such taxes or to pay the same over to the tax officer, less  
25 the amount deducted under subsection (d), within the time  
26 required by this section, the employer shall forfeit and pay the  
27 amount of the tax for those taxpayers whose taxes are not  
28 withheld and paid over, or that are withheld and not paid over  
29 together with a penalty of 10%, to be recovered by a civil  
30 action to be instituted by the tax officer, as debts of like

1 amount are now by law recoverable, except that the person shall  
2 not have the benefit of any exemption law or stay of execution.

3 (f) Collection rights preserved.--Nothing in this section  
4 shall be deemed to affect or impair the right of any school  
5 district or the tax officer to pursue and collect delinquent  
6 taxes validly imposed prior to the effective date of this  
7 section.

8 Section 311. Collection of delinquent taxes from Commonwealth.

9 (a) General rule.--On presentation of a written notice and  
10 demand under oath to the State Treasurer or any other fiscal  
11 officer of the Commonwealth, or its boards, authorities,  
12 agencies or commissions, the treasurer or officer shall deduct  
13 from the compensation then owing a sum sufficient to pay the  
14 amount of the delinquent personal income taxes, interest,  
15 penalty and costs shown on the written notice. The same shall be  
16 paid to the tax officer within 60 days after the notice is  
17 given.

18 (b) Limitation on deduction.--No more than 10% of the  
19 compensation of the delinquent taxpayer may be deducted at any  
20 one time for delinquent personal income taxes, interest, penalty  
21 and costs.

22 (c) Collection rights preserved.--Nothing in this section  
23 shall be deemed to affect or impair the right of a school  
24 district or the tax officer to pursue and collect delinquent  
25 taxes validly imposed prior to the effective date of this  
26 section.

27 Section 312. Notice to taxpayer.

28 The department shall, at least 15 days prior to the  
29 presentation of a written notice and demand under section 310 or  
30 311, notify the taxpayer owing the delinquent tax by registered

1 mail that a written notice and demand shall be presented to the  
2 taxpayer's employer unless the tax is paid. The return receipt  
3 card for registered mail shall be marked delivered to addressee  
4 only, and the cost of notification by registered mail shall be  
5 included in the costs for collecting taxes.

6 Section 313. Collection of taxes by suit.

7 (a) Power to collect.--

8 (1) Each school district and the tax officer shall have  
9 power to collect unpaid taxes from taxpayers and employers  
10 owing such taxes by a civil action or other appropriate  
11 remedy.

12 (2) On judgment, execution may be issued without any  
13 stay or benefit of any exemption law.

14 (3) The power to collect unpaid taxes under the  
15 provisions of this section shall not be affected by the fact  
16 that such taxes have been entered as liens in the office of  
17 the prothonotary or the fact that the property against which  
18 they were levied has been returned to the county  
19 commissioners for taxes for prior years.

20 (b) Limitation of actions.--A suit brought to recover the  
21 taxes under subsection (a) shall be instituted within three  
22 years after the tax is due or within three years after a  
23 declaration or return has been filed, whichever date is later,  
24 except in the following cases:

25 (1) If no declaration or return was filed by any person  
26 although a declaration or return was required to be filed  
27 under provisions of the ordinance, there shall be no  
28 limitation.

29 (2) If an examination of the declaration or return filed  
30 by any person, or of other evidence relating to the

1 declaration or return in the possession of the tax officer,  
2 reveals a fraudulent evasion of taxes, there shall be no  
3 limitation.

4 (3) If there is a substantial understatement of tax  
5 liability of 25% or more and no fraud, suit shall be  
6 instituted within six years.

7 (4) If a person has deducted taxes under the provisions  
8 of the resolution and has failed to pay the amounts so  
9 deducted to the tax officer, or if a person has willfully  
10 failed or omitted to make the deductions required by this  
11 section, there shall be no limitation.

12 (c) Regulations.--The tax officer, by regulation, shall  
13 establish the procedures for collecting the personal income tax  
14 and paying the full amount collected over to the school district  
15 on a quarterly basis.

16 Section 314. Interest and penalties.

17 (a) General rule.--If for any reason the tax is not paid  
18 when due, interest at the annual rate of 6% on the amount of the  
19 tax, and an additional penalty of .5% of the amount of the  
20 unpaid tax for each month or fraction thereof during which the  
21 tax remains unpaid, shall be added and collected. Where suit is  
22 brought for the recovery of such tax, the person liable therefor  
23 shall, in addition, be liable for the costs of collection and  
24 the interest and penalties herein imposed.

25 (b) One-time waiver of interest authorized.--

26 (1) Notwithstanding the provisions of subsection (a),  
27 the school district may, by resolution, establish a one-time  
28 period during which interest or interest and penalties that  
29 would otherwise be imposed for the nonreporting or  
30 underreporting of personal income tax liabilities or for the

1 nonpayment of personal income taxes previously imposed and  
2 due shall be waived in total or in part if the taxpayer  
3 voluntarily files delinquent returns and pays the taxes in  
4 full during the period so established.

5 (2) Each school district may adopt regulations to  
6 implement the provisions of this subsection.

7 (c) Proceedings.--The provisions of subsection (b) shall not  
8 affect or terminate any petitions, investigations, prosecutions  
9 or other proceedings pending on the effective date of this  
10 section, or prevent the commencement or further prosecution of  
11 any proceedings by the proper authorities for violations of this  
12 act. No proceedings shall, however, be commenced on the basis of  
13 delinquent returns filed pursuant to subsection (b) if the  
14 returns are determined to be substantially true and correct and  
15 the taxes are paid in full within the prescribed time.

16 Section 315. Fines and penalties for violation of resolutions.

17 (a) Conduct prohibited.--

18 (1) Any person who fails, neglects or refuses to make  
19 any declaration or return required by the resolution, any  
20 employer who fails, neglects or refuses to register or to pay  
21 the tax deducted from its employees, or fails, neglects or  
22 refuses to deduct or withhold the tax from its employees, any  
23 person who refuses to permit the officer or any agent  
24 designated by that officer to examine the person's books,  
25 records and papers, and any person who knowingly makes any  
26 incomplete, false or fraudulent return, or attempts to do  
27 anything whatsoever to avoid the full disclosure of the  
28 amount of the person's personal income in order to avoid the  
29 payment of the whole or any part of the tax imposed by the  
30 resolution, shall, upon conviction thereof, in any county in

1       which the school district imposing the tax is located, be  
2       sentenced to pay a fine of not more than \$500 for each  
3       offense and costs and, in default of payment of the fines and  
4       costs, to be imprisoned for a period not exceeding 30 days.

5           (2) Any person who divulges any information which is  
6       confidential under the provisions of the resolution shall,  
7       upon conviction thereof, be sentenced to pay a fine of not  
8       more than \$500 for each offense and costs and, in default of  
9       payment of said fines and costs, to be imprisoned for a  
10      period not exceeding 30 days.

11      (b) Cumulative penalties.--The penalties imposed under this  
12      section shall be in addition to any other penalty imposed by any  
13      other section of the resolution.

14      (c) Defense unavailable.--The failure of any person to  
15      receive or procure forms required for making the declaration or  
16      returns by the resolution shall not excuse the person from  
17      making the declaration or return.

18      Section 316. Collection at source.

19      (a) Duty of employers to register.--Every employer having an  
20      office, factory, workshop, branch, warehouse or other place of  
21      business within the school district imposing a tax on personal  
22      income who employs one or more persons, other than domestic  
23      servants, for a salary, wage, commission or other compensation,  
24      who has not previously registered shall, within 15 days after  
25      becoming an employer, register with the tax officer his name and  
26      address and such other information as the tax officer may  
27      require.

28      (b) Duty to deduct tax.--

29           (1) Every employer having an office, factory, workshop,  
30      branch, warehouse or other place of business within the

1 school district imposing a tax on personal income who employs  
2 one or more persons, other than domestic servants, for a  
3 salary, wage, commission or other compensation, shall deduct  
4 at the time of payment thereof, the tax imposed pursuant to  
5 this chapter due to his employee or employees, and shall, on  
6 or before April 30 of the current year, July 31 of the  
7 current year, October 31 of the current year and January 31  
8 of the succeeding year, file a return and pay to the tax  
9 officer the amount of taxes deducted during the preceding  
10 three-month periods ending March 31 of the current year, June  
11 30 of the current year, September 30 of the current year and  
12 December 31 of the current year, respectively.

13 (2) Unless otherwise agreed upon between the tax officer  
14 and employer, the return shall show the name and Social  
15 Security number of each employee, the compensation of the  
16 employee during the preceding three-month period, the tax  
17 deducted from the compensation, the school district imposing  
18 the tax upon the employee, the total compensation of all  
19 employees during the preceding three-month period and the  
20 total tax deducted from the compensation and paid with the  
21 return.

22 (3) Any employer that for two of the preceding four  
23 quarterly periods has failed to deduct the proper tax, or any  
24 part thereof, or has failed to pay over the proper amount of  
25 tax to the school district, may be required by the officer to  
26 file the employer's return and pay the tax monthly. In such  
27 cases, payments of tax shall be made to the tax officer on or  
28 before the last day of the month succeeding the month for  
29 which the tax was withheld.

30 (c) Duty to file annual return.--On or before February 28 of

1 the succeeding year, every employer shall file with the tax  
2 officer:

3 (1) An annual return showing the total amount of  
4 compensation paid, the total amount of tax deducted and the  
5 total amount of tax paid to the tax officer for the period  
6 beginning January 1 of the current year and ending December  
7 31 of the current year.

8 (2) A return withholding statement for each employee  
9 employed during all or any part of the period beginning  
10 January 1 of the current year and ending December 31 of the  
11 current year, setting forth the employee's name, address and  
12 Social Security number, the amount of earned income paid to  
13 the employee during the period, the amount of tax deducted,  
14 the school district imposing the tax upon the employees and  
15 the amount of tax paid to the tax officer. Every employer  
16 shall furnish two copies of the individual return to the  
17 employee for whom it is filed.

18 (d) Discontinued businesses.--Every employer who  
19 discontinues business prior to December 31 of the current year  
20 shall, within 30 days after the discontinuance of business, file  
21 the returns and withholding statements required by this section  
22 and pay the tax due.

23 (e) Liability of employers.--Every employer who willfully or  
24 negligently fails or omits to make the deductions required by  
25 this section shall be liable for payment of the taxes which he  
26 was required to withhold to the extent that such taxes have not  
27 been recovered from the employee.

28 (f) Liability of employees.--The failure or omission of any  
29 employer to make the deductions required by this section shall  
30 not relieve any employee from the payment of the tax or from



1 complying with the requirements of the ordinance or resolution  
2 relating to the filing of declarations and returns.

3 SUBCHAPTER B

4 EDUCATION TAX

5 Section 321. Education tax.

6 (a) Legislative finding.--The General Assembly finds that  
7 there is a need for an education tax to offset the loss of  
8 revenue caused by the abolition of the school earned income tax  
9 and the abolition of other school nuisance taxes and by the need  
10 to preserve the tax exemption for food and clothing under the  
11 Tax Reform Code of 1971.

12 (b) General rule.--In addition to the tax collected under  
13 section 302 of the Tax Reform Code of 1971, the Commonwealth  
14 shall impose the tax set forth in subsection (c) in the same  
15 manner as the tax under the Tax Reform Code of 1971.

16 (c) Imposition of tax.--

17 (1) Every resident individual, estate or trust shall be  
18 subject to, and shall pay for the privilege of receiving each  
19 of the classes of income enumerated in section 303 of the Tax  
20 Reform Code of 1971, a tax upon each dollar of income  
21 received by that resident during that resident's taxable year  
22 at the rate of .85%.

23 (2) Every nonresident individual, estate or trust shall  
24 be subject to, and shall pay for the privilege of receiving  
25 each of the classes of income enumerated in section 303 of  
26 the Tax Reform Code of 1971 from sources within this  
27 Commonwealth, a tax upon each dollar of income received by  
28 that nonresident during that nonresident's taxable year at  
29 the rate of .85%.

30 (d) Deposit in Education Operating Fund.--All moneys

1 collected under this section shall be deposited in the Education  
2 Operating Fund.

3 (e) Combination of tax forms.--The department shall  
4 incorporate the taxpayer reporting requirement for the  
5 implementation of this section into the forms utilized by the  
6 department under Article III of the Tax Reform Code of 1971.

7 (f) Definitions.--The words and phrases used in this section  
8 shall have the same meaning given to them in Article III of the  
9 Tax Reform Code of 1971.

#### 10 CHAPTER 4

#### 11 STATE REALTY TRANSFER TAX

12 Section 401. Authorization of State realty transfer tax for  
13 public education.

14 (a) General rule.--The Commonwealth shall impose the tax set  
15 forth in subsection (b) in the same manner as the tax collected  
16 under section 1102-C of the Tax Reform Code of 1971.

17 (b) Imposition of tax.--

18 (1) Every person who makes, executes, delivers, accepts  
19 or presents for recording any document or in whose behalf any  
20 document is made, executed, delivered, accepted or presented  
21 for recording, shall be subject to pay for and in respect to  
22 the transaction or any part thereof, or for or in respect of  
23 the vellum parchment or paper upon which such document is  
24 written or printed, a State tax at the rate of .5% of the  
25 value of the real estate represented by such document, which  
26 State tax shall be payable at the earlier of the time the  
27 document is presented for recording or within 30 days of  
28 acceptance of such document or within 30 days of becoming an  
29 acquired company.

30 (2) The tax imposed under this section shall apply to

1 transactions that occur on or after January 1, 2009.

2 (c) Deposit into Education Operating Fund.--All moneys  
3 collected under this section shall be deposited in the Education  
4 Operating Fund and shall be utilized in accordance with the  
5 provisions of this act.

6 Section 402. Deposit of existing Commonwealth realty transfer  
7 tax.

8 All moneys required to be paid to the Commonwealth in  
9 accordance with Article XI-C of the Tax Reform Code of 1971  
10 shall be credited to the General Fund.

## 11 CHAPTER 5

### 12 EARNED INCOME TAX

13 Section 501. Scope.

14 This chapter authorizes school districts to levy, assess and  
15 collect an earned income tax.

16 Section 502. Definitions.

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

20 "Association." A partnership, limited partnership or other  
21 unincorporated group of two or more persons.

22 "Business." An enterprise, activity, profession or other  
23 undertaking of an unincorporated nature conducted for profit or  
24 ordinarily conducted for profit whether by a person, association  
25 or other entity.

26 "Corporation." A corporation or joint stock association  
27 organized under the laws of the United States, this Commonwealth  
28 or any other state, territory, foreign country or dependency.

29 "Current year." The calendar year or fiscal year for which a  
30 tax is levied.

1 "Department." The Department of Community and Economic  
2 Development of the Commonwealth.

3 "Domicile."

4 (1) The place where a person lives and has the person's  
5 permanent home and to which the person has the intention of  
6 returning whenever the person is absent. Actual residence is  
7 not necessarily domicile because domicile is the fixed place  
8 of abode which, in the intention of the taxpayer, is  
9 permanent rather than transitory.

10 (2) Domicile is the voluntarily fixed place of  
11 habitation of a person, not for a mere special or limited  
12 purpose, but with the present intention of making a permanent  
13 home, until some event occurs to induce the person to adopt  
14 some other permanent home.

15 (3) In the case of a business or association, the  
16 domicile is any place where the business or association is  
17 conducting or engaging in a business for profit within a  
18 school district.

19 "Earned income."

20 (1) Compensation as determined under section 303 of the  
21 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
22 Code of 1971, and regulations in 61 Pa. Code Pt. I Subpt. B  
23 Art. V (relating to personal income tax).

24 (2) Employee business expenses are allowable deductions  
25 as determined under Article III of the Tax Reform Code of  
26 1971.

27 (3) The amount of any housing allowance provided to a  
28 member of the clergy shall not be taxable as earned income.

29 "Employer." A person, association, corporation, governmental  
30 unit or other entity employing one or more persons, other than

1 domestic servants for compensation.

2 "Nonresident." A person, association or other entity  
3 domiciled outside a school district.

4 "Person" or "individual." A natural person.

5 "Political subdivision." A school district.

6 "Preceding year." The calendar year or fiscal year before a  
7 current year.

8 "Resident." A person, association, corporation or other  
9 entity:

10 (1) living in or maintaining a permanent or fixed place  
11 of abode in a school district; or

12 (2) conducting or engaging in a business for profit  
13 within a school district.

14 "Succeeding year." The calendar year or fiscal year  
15 following a current year.

16 "Tax officer." The person, public employee or private agency  
17 designated by a governing body to collect and administer a tax  
18 imposed under this chapter, and the treasurer of a school  
19 district of the first class A.

20 "Taxpayer." A person, association or other entity required  
21 under this chapter to file a tax return or to pay a tax.

22 Section 503. Preemption.

23 No act of the General Assembly shall vacate or preempt any  
24 resolution passed or adopted under the authority of this chapter  
25 or any other act providing authority for the imposition of a tax  
26 by a school district, unless the act of the General Assembly  
27 expressly vacates or preempts the authority to pass or adopt  
28 such resolutions.

29 Section 504. Earned income tax authorization.

30 (a) School districts.--Except as prohibited under Chapter

1 11, each school district shall have the power and may, by  
2 resolution, levy, assess and collect or provide for the levying,  
3 assessment and collection of a tax for general revenue purposes  
4 at a rate as it shall determine on earned income of the  
5 residents of the school district. A school district may only  
6 impose and increase the rate of earned income tax when that  
7 school district complies with the provisions of subsection (b).

8 (b) Adoption of referendum.--

9 (1) In order to levy an earned income tax under this  
10 chapter, a governing body shall use the procedures set forth  
11 in paragraphs (2), (3), (4), (5), (6) and (7).

12 (2) (i) Subject to the notice and public hearing  
13 requirements of paragraph (7), a governing body may levy  
14 the earned income tax under this chapter only by  
15 obtaining the approval of the electorate of the affected  
16 school district in a public referendum at only the  
17 municipal election preceding the fiscal year when the  
18 earned income tax will be initially imposed or the rate  
19 increased.

20 (ii) The referendum question must state the initial  
21 rate of the proposed earned income tax, the reason for  
22 the tax and the amount of proposed budgeted revenue  
23 growth, if any, in the first fiscal year following  
24 adoption of the referendum.

25 (iii) The question shall be in clear language that  
26 is readily understandable by a layperson. For the purpose  
27 of illustration, a referendum question may be framed as  
28 follows:

29 Do you favor the imposition of an earned income and  
30 net profits tax of X%?

1           (iv) A nonlegal interpretative statement must  
2           accompany the question in accordance with section 201.1  
3           of the act of June 3, 1937 (P.L.1333, No.320), known as  
4           the Pennsylvania Election Code, that includes the  
5           following: the initial rate of the earned income tax  
6           imposed under this chapter and the estimated revenues to  
7           be derived from the initial rate of the earned income tax  
8           imposed under this chapter.

9           (3) In the event a school district is located in more  
10          than one county, petitions under this section shall be filed  
11          with the election officials of the county in which the  
12          administrative offices of the school district are located.

13          (4) The election officials who receive a petition shall  
14          perform all administrative functions in reviewing and  
15          certifying the validity of the petition and conduct all  
16          necessary communications with the school district.

17          (5) (i) If the election officials of the county who  
18          receive the petition certify that it is sufficient under  
19          this section and determine that a question should be  
20          placed on the ballot, the decision shall be communicated  
21          to election officials in any other county in which the  
22          school district is also located.

23          (ii) Election officials in the other county or  
24          counties shall cooperate with election officials of the  
25          county receiving the petition to ensure that an identical  
26          question is placed on the ballot at the same election  
27          throughout the entire school district.

28          (6) Election officials from each county involved shall  
29          independently certify the results from their county to the  
30          governing body.

(7) (i) In order to levy the tax under this section, the governing body shall adopt a resolution which refers to this chapter prior to placing a question on the ballot.

(ii) Prior to adopting a resolution imposing the tax authorized by this section, the governing body shall give public notice of its intent to adopt the resolution in the manner provided by section 4 of The Local Tax Enabling Act and shall conduct at least one public hearing regarding the proposed adoption of the resolution.

Section 505. Continuity of tax.

Every tax levied under this chapter shall continue in force on a calendar or fiscal year basis, as the case may be, without annual reenactment unless the rate of the tax is subsequently changed.

Section 506. Exemption of low-income persons.

(a) General rule.--Each school district shall exempt any person whose total income from all sources is less than \$10,000 per year from the earned income tax, or any portion thereof.

(b) Procedures.--Each school district shall adopt procedures for the processing of claims for these exemptions.

Section 507. Collection of earned income tax.

The tax officer shall collect all earned income tax imposed by a school district.

Section 508. Limitation on assessment.

No assessment may be made of any earned income tax imposed under this chapter more than five years after the date on which the tax should have been paid except where a fraudulent return or no return has been filed.



1 Section 509. Distress and sale of property of taxpayer.

2 (a) General rule.--In case of the neglect or refusal of any  
3 person, association or corporation to make payment of the amount  
4 of any earned income tax due after two months from the date of  
5 the tax notice, the tax officer shall levy the amount of the  
6 tax, penalty, interest and costs thereon, not exceeding costs  
7 and charges allowed constables for similar services by distress  
8 and sale of the goods and chattels of the delinquent taxpayer,  
9 wherever located, after giving at least ten days' public notice  
10 of such sale by one advertisement in a newspaper of general  
11 circulation published in the county.

12 (b) Effect on return.--No failure to demand or collect any  
13 taxes by distress and sale of goods and chattels shall  
14 invalidate any return made, lien filed for nonpayment of taxes  
15 or any tax sale for the collection of taxes.

16 Section 510. Collection of delinquent taxes from employers.

17 (a) General rule.--The tax officer shall demand, receive and  
18 collect from all employers employing persons owing delinquent  
19 earned income taxes or having in possession unpaid earned income  
20 belonging to any person or persons owing delinquent earned  
21 income taxes on the presentation of a written notice and demand  
22 certifying that the information contained in the notice and  
23 demand is true and correct and containing the name of the  
24 taxpayer and the amount of tax due.

25 (b) Response to notice.--On the presentation of the written  
26 notice and demand, the employer shall deduct from the earned  
27 income of the employees then owing, or thereafter due, a sum  
28 sufficient to pay the amount of the delinquent earned income  
29 taxes, interest, penalty and costs shown on the written notice  
30 or demand, and shall pay the same to the tax officer by which

1 the delinquent tax was levied within 60 days after the notice  
2 was given.

3 (c) Limitation on deduction.--No more than 10% of the  
4 compensation of the delinquent taxpayer may be deducted at any  
5 one time for delinquent earned income taxes, penalty, interest  
6 and costs.

7 (d) Deduction for costs.--The employer shall be entitled to  
8 deduct from the moneys collected from each employee the costs  
9 incurred from the extra bookkeeping necessary to record the  
10 transactions, not exceeding 2% of the amount collected and paid  
11 over to the tax officer.

12 (e) Forfeiture.--If the employer fails to deduct the amount  
13 of such taxes or to pay the same over to the tax officer, less  
14 the amount deducted under subsection (d), within the time  
15 required by this section, the employer shall forfeit and pay the  
16 amount of the tax for those taxpayers whose taxes are not  
17 withheld and paid over, or that are withheld and not paid over  
18 together with a penalty of 10%, to be recovered by a civil  
19 action instituted by the tax officer, as debts of like amount  
20 are now by law recoverable, except that the person shall not  
21 have the benefit of any exemption law or stay of execution.

22 (f) Collection rights preserved.--Nothing in this section  
23 shall be deemed to affect or impair the right of any school  
24 district or the tax officer to pursue and collect delinquent  
25 taxes validly imposed prior to the effective date of this  
26 section.

27 Section 511. Collection of delinquent taxes from Commonwealth.

28 (a) General rule.--On presentation of a written notice and  
29 demand under oath to the State Treasurer or any other fiscal  
30 officer of the Commonwealth, or its boards, authorities,

1 agencies or commissions, the treasurer or officer shall deduct  
2 from the compensation then owing a sum sufficient to pay the  
3 amount of the delinquent earned income taxes, interest, penalty  
4 and costs shown on the written notice. The same shall be paid to  
5 the tax officer within 60 days after the notice is given.

6 (b) Limitation on deduction.--No more than 10% of the  
7 compensation of the delinquent taxpayer may be deducted at any  
8 one time for delinquent earned income taxes, interest, penalty  
9 and costs.

10 (c) Collection rights preserved.--Nothing in this section  
11 shall be deemed to affect or impair the right of a school  
12 district or the tax officer to pursue and collect delinquent  
13 taxes validly imposed prior to the effective date of this  
14 section.

15 Section 512. Notice to taxpayer.

16 The tax officer shall, at least 15 days prior to the  
17 presentation of a written notice and demand under section 510 or  
18 511, notify the taxpayer owing the delinquent tax by registered  
19 mail that a written notice and demand shall be presented to the  
20 taxpayer's employer unless such tax is paid. The return receipt  
21 card for registered mail shall be marked delivered to addressee  
22 only, and the cost of notification by registered mail shall be  
23 included in the costs for collecting taxes.

24 Section 513. Collection of taxes by suit.

25 (a) Power to collect.--

26 (1) Each school district and the tax officer shall have  
27 power to collect unpaid taxes from taxpayers and employers  
28 owing such taxes by a civil action or other appropriate  
29 remedy.

30 (2) On judgment, execution may be issued without any

1 stay or benefit of any exemption law.

2 (3) The power to collect unpaid taxes under the  
3 provisions of this section shall not be affected by the fact  
4 that such taxes have been entered as liens in the office of  
5 the prothonotary or the fact that the property against which  
6 they were levied has been returned to the county  
7 commissioners for taxes for prior years.

8 (b) Limitation of actions.--A suit brought to recover the  
9 taxes under subsection (a) shall be instituted within three  
10 years after the tax is due or within three years after a  
11 declaration or return has been filed, whichever date is later,  
12 except in the following cases:

13 (1) If no declaration or return was filed by any person,  
14 although a declaration or return was required to be filed  
15 under provisions of the ordinance, there shall be no  
16 limitation.

17 (2) If an examination of the declaration or return filed  
18 by any person, or of other evidence relating to the  
19 declaration or return in the possession of the tax officer,  
20 reveals a fraudulent evasion of taxes, there shall be no  
21 limitation.

22 (3) If there is a substantial understatement of tax  
23 liability of 25% or more and no fraud, suit shall be  
24 instituted within six years.

25 (4) If a person has deducted taxes under the provisions  
26 of the resolution and has failed to pay the amounts so  
27 deducted to the tax officer, or if any person has willfully  
28 failed or omitted to make the deductions required by this  
29 section, there shall be no limitation.

30 (c) Procedures.--The tax officer shall establish the

1 procedures for collecting the earned income tax and paying the  
2 full amount collected over to the school district on a quarterly  
3 basis.

4 Section 514. Interest and penalties.

5 (a) General rule.--If for any reason the tax is not paid  
6 when due, interest at the annual rate of 6% on the amount of the  
7 tax, and an additional penalty of .5% of the amount of the  
8 unpaid tax for each month or fraction thereof during which the  
9 tax remains unpaid, shall be added and collected. Where suit is  
10 brought for the recovery of such tax, the person liable therefor  
11 shall, in addition, be liable for the costs of collection and  
12 the interest and penalties herein imposed.

13 (b) One-time waiver of interest authorized.--

14 (1) Notwithstanding the provisions of subsection (a),  
15 the school district may, by resolution, establish a one-time  
16 period during which interest or interest and penalties that  
17 would otherwise be imposed for the nonreporting or  
18 underreporting of earned income tax liabilities or for the  
19 nonpayment of earned income taxes previously imposed and due  
20 shall be waived in total or in part if the taxpayer  
21 voluntarily files delinquent returns and pays the taxes in  
22 full during the period so established.

23 (2) Each school district may adopt regulations to  
24 implement the provisions of this subsection.

25 (c) Proceedings.--The provisions of subsection (b) shall not  
26 affect or terminate any petitions, investigations, prosecutions  
27 or other proceedings pending on the effective date of this  
28 section, or prevent the commencement or further prosecution of  
29 any proceedings by the proper authorities for violations of this  
30 act. No proceedings shall, however, be commenced on the basis of

delinquent returns filed pursuant to subsection (b) if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

Section 515. Fines and penalties for violation of resolutions.

(a) Conduct prohibited.--

(1) Any person who fails, neglects or refuses to make any declaration or return required by the resolution, any employer who fails, neglects or refuses to register or to pay the tax deducted from its employees, or fails, neglects or refuses to deduct or withhold the tax from its employees, any person who refuses to permit the officer or any agent designated by that officer to examine the person's books, records and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of the person's earned income in order to avoid the payment of the whole or any part of the tax imposed by the resolution, shall, upon conviction thereof, in any county in which the school district imposing the tax is located be sentenced to pay a fine of not more than \$500 for each offense and costs and, in default of payment of the fines and costs, to be imprisoned for a period not exceeding 30 days.

(2) Any person who divulges any information which is confidential under the provisions of the resolution shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500 for each offense and costs and, in default of payment of said fines and costs, to be imprisoned for a period not exceeding 30 days.

(b) Cumulative penalties.--The penalties imposed under this section shall be in addition to any other penalty imposed by any

1 other section of the resolution.

2 (c) Defense unavailable.--The failure of any person to  
3 receive or procure forms required for making the declaration or  
4 returns required by the resolution shall not excuse the person  
5 from making the declaration or return.

6 Section 516. Collection at source.

7 (a) Duty of employers to register.--Every employer having an  
8 office, factory, workshop, branch, warehouse or other place of  
9 business within the school district imposing a tax on earned  
10 income within the taxing district who employs one or more  
11 persons, other than domestic servants, for a salary, wage,  
12 commission or other compensation, who has not previously  
13 registered shall, within 15 days after becoming an employer,  
14 register with the tax officer his name and address and such  
15 other information as the tax officer may require.

16 (b) Duty to deduct tax.--

17 (1) Every employer having an office, factory, workshop,  
18 branch, warehouse or other place of business within the  
19 school district imposing a tax on earned income who employs  
20 one or more persons, other than domestic servants, for a  
21 salary, wage, commission or other compensation, shall deduct  
22 at the time of payment thereof, the tax imposed pursuant to  
23 this chapter on the earned income due to his employee or  
24 employees, and shall, on or before April 30 of the current  
25 year, July 31 of the current year, October 31 of the current  
26 year and January 31 of the succeeding year, file a return and  
27 pay to the tax officer the amount of taxes deducted during  
28 the preceding three-month periods ending March 31 of the  
29 current year, June 30 of the current year, September 30 of  
30 the current year and December 31 of the current year,

1       respectively.

2           (2) Unless otherwise agreed upon between the tax officer  
3       and employer, the return shall show the name and Social  
4       Security number of each employee, the earned income of the  
5       employee during the preceding three-month period, the tax  
6       deducted from the compensation, the school district imposing  
7       the tax upon the employee, the total earned income of all  
8       employees during the preceding three-month period and the  
9       total tax deducted from the compensation and paid with the  
10      return.

11          (3) Any employer that for two of the preceding four  
12      quarterly periods has failed to deduct the proper tax, or any  
13      part thereof, or has failed to pay over the proper amount of  
14      tax to the school district, may be required by the tax  
15      officer to file his return and pay the tax monthly. In such  
16      cases, payments of tax shall be made to the tax officer on or  
17      before the last day of the month succeeding the month for  
18      which the tax was withheld.

19      (c) Duty to file annual return.--On or before February 28 of  
20      the succeeding year, every employer shall file with the tax  
21      officer:

22          (1) An annual return showing the total amount of earned  
23      income paid, the total amount of tax deducted and the total  
24      amount of tax paid to the tax officer for the period  
25      beginning January 1 of the current year and ending December  
26      31 of the current year.

27          (2) A return withholding statement for each employee  
28      employed during all or any part of the period beginning  
29      January 1 of the current year and ending December 31 of the  
30      current year, setting forth the employee's name, address and



1 Social Security number, the amount of earned income paid to  
2 the employee during the period, the amount of tax deducted,  
3 the school district imposing the tax upon the employees and  
4 the amount of tax paid to the tax officer. Every employer  
5 shall furnish two copies of the individual return to the  
6 employee for whom it is filed.

7 (d) Discontinued businesses.--Every employer who  
8 discontinues business prior to December 31 of the current year  
9 shall, within 30 days after the discontinuance of business, file  
10 the returns and withholding statements required by this section  
11 and pay the tax due.

12 (e) Liability of employers.--Every employer who willfully or  
13 negligently fails or omits to make the deductions required by  
14 this section shall be liable for payment of the taxes which he  
15 was required to withhold to the extent that such taxes have not  
16 been recovered from the employee.

17 (f) Liability of employees.--The failure or omission of any  
18 employer to make the deductions required by this section shall  
19 not relieve any employee from the payment of the tax or from  
20 complying with the requirements of the ordinance or resolution  
21 relating to the filing of declarations and returns.

## 22 CHAPTER 7

### 23 SALES AND USE TAX FOR EDUCATION

#### 24 SUBCHAPTER A

#### 25 PRELIMINARY PROVISIONS

##### 26 Section 701. Scope.

27 The tax provided for under this chapter shall be known as the  
28 Sales and Use Tax for Education, which shall be a replacement  
29 for the sales and use tax authorized under Article II of the Tax  
30 Reform Code of 1971 and that is repealed by this act.

1 Section 701.1. Definitions.

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

5 (a) "Soft drinks."

6 (1) All nonalcoholic beverages, whether carbonated or  
7 not, such as soda water, ginger ale, Coca Cola, lime cola,  
8 Pepsi Cola, Dr Pepper, fruit juice when plain or carbonated  
9 water, flavoring or syrup is added, carbonated water,  
10 orangeade, lemonade, root beer or any and all preparations,  
11 commonly referred to as soft drinks, of whatsoever kind, and  
12 are further described as including any and all beverages,  
13 commonly referred to as soft drinks, which are made with or  
14 without the use of any syrup.

15 (2) The term does not include natural fruit or vegetable  
16 juices or their concentrates, or noncarbonated fruit juice  
17 drinks containing not less than 25% by volume of natural  
18 fruit juices or of fruit juice which has been reconstituted  
19 to its original state, or natural concentrated fruit or  
20 vegetable juices reconstituted to their original state,  
21 whether any of the natural juices are frozen or unfrozen,  
22 sweetened or unsweetened, seasoned with salt or spice or  
23 unseasoned. The term also does not include coffee, coffee  
24 substitutes, tea, cocoa, natural fluid milk or noncarbonated  
25 drinks made from milk derivatives.

26 (b) "Maintaining a place of business in this Commonwealth."

27 (1) Having, maintaining or using within this  
28 Commonwealth, either directly or through a subsidiary,  
29 representative or an agent, an office, distribution house,  
30 sales house, warehouse, service enterprise or other place of

1 business; or any agent of general or restricted authority, or  
2 representative, irrespective of whether the place of  
3 business, representative or agent is located in this  
4 Commonwealth, permanently or temporarily, or whether the  
5 person or subsidiary maintaining the place of business,  
6 representative or agent is authorized to do business within  
7 this Commonwealth.

8 (2) Engaging in any activity as a business within this  
9 Commonwealth by any person, either directly or through a  
10 subsidiary, representative or an agent, in connection with  
11 the lease, sale or delivery of tangible personal property or  
12 the performance of services thereon for use, storage or  
13 consumption or in connection with the sale or delivery for  
14 use of the services described in subclauses (11) through (18)  
15 of clause (k) of this section, including, but not limited to,  
16 having, maintaining or using any office, distribution house,  
17 sales house, warehouse or other place of business, any stock  
18 of goods or any solicitor, canvasser, salesman,  
19 representative or agent under its authority, at its direction  
20 or with its permission, regardless of whether the person or  
21 subsidiary is authorized to do business in this Commonwealth.

22 (3) Regularly or substantially soliciting orders within  
23 this Commonwealth in connection with the lease, sale or  
24 delivery of tangible personal property to or the performance  
25 thereon of services or in connection with the sale or  
26 delivery of the services described in subclauses (11) through  
27 (18) of clause (k) of this section for residents of this  
28 Commonwealth by means of catalogs or other advertising,  
29 whether the orders are accepted within or without this  
30 Commonwealth.

1           (3.1) Entering this Commonwealth by any person to  
2 provide assembly, service or repair of tangible personal  
3 property, either directly or through a subsidiary,  
4 representative or an agent.

5           (3.2) Delivering tangible personal property to locations  
6 within this Commonwealth if the delivery includes the  
7 unpacking, positioning, placing or assembling of the tangible  
8 personal property.

9           (3.3) Having any contact within this Commonwealth which  
10 would allow the Commonwealth to require a person to collect  
11 and remit tax under the Constitution of the United States.

12           (3.4) Providing a customer's mobile telecommunications  
13 service deemed to be provided by the customer's home service  
14 provider under the Mobile Telecommunications Sourcing Act (4  
15 U.S.C. § 116). For purposes of this clause, words and phrases  
16 used in this clause shall have the meanings given to them in  
17 the Mobile Telecommunications Sourcing Act.

18           (4) The term does not include:

19               (i) Owning or leasing of tangible or intangible  
20 property by a person who has contracted with an  
21 unaffiliated commercial printer for printing, provided  
22 that:

23                   (A) the property is for use by the commercial  
24 printer; and

25                   (B) the property is located at the Pennsylvania  
26 premises of the commercial printer.

27               (ii) Visits by a person's employees or agents to the  
28 premises in this Commonwealth of an unaffiliated  
29 commercial printer with whom the person has contracted  
30 for printing in connection with said contract.

1 (c) "Manufacture." The performance of manufacturing,  
2 fabricating, compounding, processing or other operations,  
3 engaged in as a business, which place any tangible personal  
4 property in a form, composition or character different from that  
5 in which it is acquired whether for sale or use by the  
6 manufacturer, and shall include, but not be limited to:

7 (1) Every operation commencing with the first production  
8 stage and ending with the completion of tangible personal  
9 property having the physical qualities, including packaging,  
10 if any, passing to the ultimate consumer, which it has when  
11 transferred by the manufacturer to another. For purposes of  
12 this definition, "operation" includes clean rooms and their  
13 component systems, including: environmental control systems,  
14 antistatic vertical walls and manufacturing platforms and  
15 floors which are independent of the real estate; process  
16 piping systems; specialized lighting systems; deionized water  
17 systems; process vacuum and compressed air systems; process  
18 and specialty gases; and alarm or warning devices  
19 specifically designed to warn of threats to the integrity of  
20 the product or people. For purposes of this definition, a  
21 "clean room" is a location with a self-contained, sealed  
22 environment with a controlled, closed air system independent  
23 from the facility's general environmental control system.

24 (2) The publishing of books, newspapers, magazines and  
25 other periodicals and printing.

26 (3) Refining, blasting, exploring, mining and quarrying  
27 for, or otherwise extracting from the earth or from waste or  
28 stock piles or from pits or banks any natural resources,  
29 minerals and mineral aggregates including blast furnace slag.

30 (4) Building, rebuilding, repairing and making additions

1 to, or replacements in or upon vessels designed for  
2 commercial use of registered tonnage of 50 tons or more when  
3 produced on special order of the purchaser, or when rebuilt,  
4 repaired or enlarged, or when replacements are made upon  
5 order of or for the account of the owner.

6 (5) Research having as its objective the production of a  
7 new or an improved:

8 (i) product or utility service; or

9 (ii) method of producing a product or utility  
10 service,

11 but in either case not including market research or research  
12 having as its objective the improvement of administrative  
13 efficiency.

14 (6) Remanufacture for wholesale distribution by a  
15 remanufacturer of motor vehicle parts from used parts  
16 acquired in bulk by the remanufacturer using an assembly line  
17 process which involves the complete disassembly of such parts  
18 and integration of the components of such parts with other  
19 used or new components of parts, including the salvaging,  
20 recycling or reclaiming of used parts by the remanufacturer.

21 (7) Remanufacture or retrofit by a manufacturer or  
22 remanufacturer of aircraft, armored vehicles, other defense-  
23 related vehicles having a finished value of at least \$50,000.  
24 Remanufacture or retrofit involves the disassembly of such  
25 aircraft, vehicles, parts or components, including electric  
26 or electronic components, the integration of those parts and  
27 components with other used or new parts or components,  
28 including the salvaging, recycling or reclaiming of the used  
29 parts or components and the assembly of the new or used  
30 aircraft, vehicles, parts or components. The term does not

1 include constructing, altering, servicing, repairing or  
2 improving real estate or repairing, servicing or installing  
3 tangible personal property, nor the cooking, freezing or  
4 baking of fruits, vegetables, mushrooms, fish, seafood,  
5 meats, poultry or bakery products. For purposes of this  
6 clause, the following terms or phrases have the following  
7 meanings:

8 (i) "aircraft" means fixed-wing aircraft,  
9 helicopters, powered aircraft, tilt-rotor or tilt-wing  
10 aircraft, unmanned aircraft and gliders;

11 (ii) "armored vehicles" means tanks, armed personnel  
12 carriers and all other armed track or semitrack vehicles;  
13 and

14 (iii) "other defense-related vehicles" means trucks,  
15 truck-tractors, trailers, jeeps and other utility  
16 vehicles, including any unmanned vehicles.

17 (c.1) "Blasting." The use of any combustible or explosive  
18 composition in the removal of material resources, minerals and  
19 mineral aggregates from the earth including the separation of  
20 the dirt, waste and refuse in which they are found.

21 (d) "Processing." The performance of the following  
22 activities when engaged in as a business enterprise:

23 (1) The filtering or heating of honey, the cooking,  
24 baking or freezing of fruits, vegetables, mushrooms, fish,  
25 seafood, meats, poultry or bakery products, when the person  
26 engaged in the business packages the property in sealed  
27 containers for wholesale distribution.

28 (1.1) The processing of fruits or vegetables by  
29 cleaning, cutting, coring, peeling or chopping and treating  
30 to preserve, sterilize or purify and substantially extend the

1 useful shelf life of the fruits or vegetables, when the  
2 person engaged in the activity packages the property in  
3 sealed containers for wholesale distribution.

4 (2) The scouring, carbonizing, cording, combing,  
5 throwing, twisting or winding of natural or synthetic fibers,  
6 or the spinning, bleaching, dyeing, printing or finishing of  
7 yarns or fabrics, when the activities are performed prior to  
8 sale to the ultimate consumer.

9 (3) The electroplating, galvanizing, enameling,  
10 anodizing, coloring, finishing, impregnating or heat treating  
11 of metals or plastics for sale or in the process of  
12 manufacturing.

13 (3.1) The blanking, shearing, leveling, slitting or  
14 burning of metals for sale to or use by a manufacturer or  
15 processor.

16 (4) The rolling, drawing or extruding of ferrous and  
17 nonferrous metals.

18 (5) The fabrication for sale of ornamental or structural  
19 metal or of metal stairs, staircases, gratings, fire escapes  
20 or railings, not including fabrication work done at the  
21 construction site.

22 (6) The preparation of animal feed or poultry feed for  
23 sale.

24 (7) The production, processing and bottling of  
25 nonalcoholic beverages for wholesale distribution.

26 (8) The operation of a saw mill or planing mill for the  
27 production of lumber or lumber products for sale. The  
28 operation of a saw mill or planing mill begins with the  
29 unloading by the operator of the saw mill or planing mill of  
30 logs, timber, pulpwood or other forms of wood material to be



1 used in the saw mill or planing mill.

2 (9) The milling for sale of flour or meal from grains.

3 (9.1) The aging, stripping, conditioning, crushing and  
4 blending of tobacco leaves for use as cigar filler or as  
5 components of smokeless tobacco products for sale to  
6 manufacturers of tobacco products.

7 (10) The slaughtering and dressing of animals for meat  
8 to be sold or to be used in preparing meat products for sale,  
9 and the preparation of meat products including lard, tallow,  
10 grease, cooking and inedible oils for wholesale distribution.

11 (11) The processing of used lubricating oils.

12 (12) The broadcasting of radio and television programs  
13 of licensed commercial or educational stations.

14 (13) The cooking or baking of bread, pastries, cakes,  
15 cookies, muffins and donuts when the person engaged in the  
16 activity sells the items at retail at locations that do not  
17 constitute an establishment from which ready-to-eat food and  
18 beverages are sold. For purposes of this clause, a bakery, a  
19 pastry shop and a donut shop shall not be considered an  
20 establishment from which ready-to-eat food and beverages are  
21 sold.

22 (14) The cleaning and roasting and the blending,  
23 grinding or packaging for sale of coffee from green coffee  
24 beans or the production of coffee extract.

25 (15) The preparation of dry or liquid fertilizer for  
26 sale.

27 (16) The production, processing and packaging of ice for  
28 wholesale distribution.

29 (17) The producing of mobile telecommunications  
30 services.

1 (e) "Person." Any natural person, association, fiduciary,  
2 partnership, corporation or other entity, including the  
3 Commonwealth of Pennsylvania, its political subdivisions and  
4 instrumentalities and public authorities. Whenever used in  
5 prescribing and imposing a penalty or imposing a fine or  
6 imprisonment, or both, the term as applied to an association,  
7 includes the members of the association and, as applied to a  
8 corporation, the officers of the corporation.

9 (f) "Purchase at retail."

10 (1) The acquisition for a consideration of the  
11 ownership, custody or possession of tangible personal  
12 property other than for resale by the person acquiring the  
13 same when the acquisition is made for the purpose of  
14 consumption or use, whether the acquisition is absolute or  
15 conditional, and by any means it is effected.

16 (2) The acquisition of a license to use or consume, and  
17 the rental or lease of tangible personal property, other than  
18 for resale regardless of the period of time the lessee has  
19 possession or custody of the property.

20 (3) The obtaining for a consideration of those services  
21 described in subclauses (2), (3) and (4) of clause (k) of  
22 this section other than for resale.

23 (4) A retention after March 7, 1956, of possession,  
24 custody or a license to use or consume pursuant to a rental  
25 contract or other lease arrangement (other than as security)  
26 other than for resale.

27 (5) The obtaining for a consideration of those services  
28 described in subclauses (11) through (18) of clause (k) of  
29 this section.

30 The term, with respect to liquor and malt or brewed beverages,

1 includes the purchase of liquor from any Pennsylvania Liquor  
2 Store by any person for any purpose, and the purchase of malt or  
3 brewed beverages from a manufacturer of malt or brewed  
4 beverages, distributor or importing distributor by any person  
5 for any purpose, except purchases from a manufacturer of malt or  
6 brewed beverages by a distributor or importing distributor or  
7 purchases from an importing distributor by a distributor within  
8 the meaning of the Liquor Code. The term does not include any  
9 purchase of malt or brewed beverages from a retail dispenser or  
10 any purchase of liquor or malt or brewed beverages from a person  
11 holding a retail liquor license within the meaning of and  
12 pursuant to the provisions of the Liquor Code, but includes any  
13 purchase or acquisition of liquor or malt or brewed beverages  
14 other than pursuant to the provisions of the Liquor Code.

15 (g) "Purchase price."

16 (1) The total value of anything paid or delivered, or  
17 promised to be paid or delivered, whether money or otherwise,  
18 in complete performance of a sale at retail or purchase at  
19 retail, without any deduction on account of the cost or value  
20 of the property sold, cost or value of transportation, cost  
21 or value of labor or service, interest or discount paid or  
22 allowed after the sale is consummated, any other taxes  
23 imposed by the Commonwealth or any other expense except that  
24 there shall be excluded any gratuity or separately stated  
25 deposit charge for returnable containers.

26 (2) The value of any tangible personal property actually  
27 taken in trade or exchange in lieu of the whole or any part  
28 of the purchase price shall be deducted from the purchase  
29 price. For the purpose of this clause, the amount allowed by  
30 reason of tangible personal property actually taken in trade

1 or exchange shall be considered the value of such property.

2 (3) (i) In determining the purchase price on the sale  
3 or use of taxable tangible personal property or a service  
4 where, because of affiliation of interests between the  
5 vendor and purchaser, or irrespective of any such  
6 affiliation, if for any other reason the purchase price  
7 declared by the vendor or taxpayer on the taxable sale or  
8 use of such tangible personal property or service is, in  
9 the opinion of the department, not indicative of the true  
10 value of the article or service or the fair price  
11 thereof, the department shall, pursuant to uniform and  
12 equitable rules, determine the amount of constructive  
13 purchase price on the basis of which the tax shall be  
14 computed and levied. The rules shall provide for a  
15 constructive amount of purchase price for each sale or  
16 use which would naturally and fairly be charged in an  
17 arms-length transaction in which the element of common  
18 interest between the vendor or purchaser is absent or, if  
19 no common interest exists, any other element causing a  
20 distortion of the price or value is likewise absent.

21 (ii) For the purpose of this clause where a taxable  
22 sale or purchase at retail transaction occurs between a  
23 parent and a subsidiary, affiliate or controlled  
24 corporation of such parent corporation, there shall be a  
25 rebuttable presumption, that because of the common  
26 interest, the transaction was not at arms-length.

27 (4) Where there is a transfer or retention of possession  
28 or custody, whether it is termed a rental, lease, service or  
29 otherwise, of tangible personal property including, but not  
30 limited to, linens, aprons, motor vehicles, trailers, tires,

1 industrial office and construction equipment, and business  
2 machines the full consideration paid or delivered to the  
3 vendor or lessor shall be considered the purchase price, even  
4 though the consideration is separately stated and designated  
5 as payment for processing, laundering, service, maintenance,  
6 insurance, repairs, depreciation or otherwise. Where the  
7 vendor or lessor supplies or provides an employee to operate  
8 the tangible personal property, the value of the labor  
9 supplied may be excluded and shall not be considered as part  
10 of the purchase price if separately stated. There shall also  
11 be included as part of the purchase price the value of  
12 anything paid or delivered, or promised to be paid or  
13 delivered by a lessee, whether money or otherwise, to any  
14 person other than the vendor or lessor by reason of the  
15 maintenance, insurance or repair of the tangible personal  
16 property which a lessee has the possession or custody of  
17 under a rental contract or lease arrangement.

18 (5) (i) With respect to the tax imposed by section  
19 702(a)(2), on any tangible personal property originally  
20 purchased by the user of the property six months or  
21 longer prior to the first taxable use of the property  
22 within this Commonwealth, the user may elect to pay tax  
23 on a substituted base determined by considering the  
24 purchase price of the property for tax purposes to be  
25 equal to the prevailing market price of similar tangible  
26 personal property at the time and place of the first use  
27 within this Commonwealth.

28 (ii) The election must be made at the time of filing  
29 a tax return with the department and reporting the tax  
30 liability and paying the proper tax due plus all accrued

1 penalties and interest, if any, within six months of the  
2 due date of such report and payment, as provided for by  
3 section 717(a) and (c).

4 (6) The purchase price of employment agency services and  
5 help supply services shall be the service fee paid by the  
6 purchaser to the vendor or supplying entity. The term  
7 "service fee," as used in this subclause, means the total  
8 charge or fee of the vendor or supplying entity minus the  
9 costs of the supplied employee which costs are wages,  
10 salaries, bonuses and commissions, employment benefits,  
11 expense reimbursements and payroll and withholding taxes, to  
12 the extent that these costs are specifically itemized or that  
13 these costs in aggregate are stated in billings from the  
14 vendor or supplying entity. To the extent that these costs  
15 are not itemized or stated on the billings, then the service  
16 fee shall be the total charge or fee of the vendor or  
17 supplying entity.

18 (7) Unless the vendor separately states that portion of  
19 the billing which applies to premium cable service as defined  
20 in clause (11), the total bill for the provision of all cable  
21 services shall be the purchase price.

22 (8) The purchase price of prebuilt housing shall be 60%  
23 of the manufacturer's selling price, provided that a  
24 manufacturer of prebuilt housing who precollects tax from a  
25 prebuilt housing builder at the time of the sale to the  
26 prebuilt housing builder shall have the option to collect tax  
27 on 60% of the selling price or on 100% of the actual cost of  
28 the supplies and materials used in the manufacture of the  
29 prebuilt housing.

30 (h) "Purchaser." Any person who acquires, for a

1 consideration, the ownership, custody or possession by sale,  
2 lease or otherwise of tangible personal property, or who obtains  
3 services in exchange for a purchase price but not including an  
4 employer who obtains services from his employees in exchange for  
5 wages or salaries when such services are rendered in the  
6 ordinary scope of their employment.

7 (i) "Resale."

8 (1) Any transfer of ownership, custody or possession of  
9 tangible personal property for a consideration, including the  
10 grant of a license to use or consume and transactions where  
11 the possession of the property is transferred but where the  
12 transferor retains title only as security for payment of the  
13 selling price whether the transaction is designated as  
14 bailment lease, conditional sale or otherwise.

15 (2) The physical incorporation of tangible personal  
16 property as an ingredient or constituent into other tangible  
17 personal property, which is to be sold in the regular course  
18 of business or the performance of those services described in  
19 subclauses (2), (3) and (4) of clause (k) upon tangible  
20 personal property which is to be sold in the regular course  
21 of business or where the person incorporating the property  
22 has undertaken at the time of purchase to cause it to be  
23 transported in interstate commerce to a destination outside  
24 this Commonwealth. The term includes telecommunications  
25 services purchased by a cable operator or video programmer  
26 that are used to transport or deliver cable or video  
27 programming services which are sold in the regular course of  
28 business.

29 (3) The term also includes tangible personal property  
30 purchased or having a situs within this Commonwealth solely

1 for the purpose of being processed, fabricated or  
2 manufactured into, attached to or incorporated into tangible  
3 personal property and thereafter transported outside this  
4 Commonwealth for use exclusively outside this Commonwealth.

5 (4) The term does not include any sale of malt or brewed  
6 beverages by a retail dispenser, or any sale of liquor or  
7 malt or brewed beverages by a person holding a retail liquor  
8 license within the meaning of the act of April 12, 1951  
9 (P.L.90, No.21), known as the Liquor Code.

10 (5) The physical incorporation of tangible personal  
11 property as an ingredient or constituent in the construction  
12 of foundations for machinery or equipment the sale or use of  
13 which is excluded from tax under the provisions of paragraphs  
14 (A), (B), (C) and (D) of subclause (8) of clause (k) and  
15 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of  
16 subclause (4) of clause (o), whether the foundations at the  
17 time of construction or transfer constitute tangible personal  
18 property or real estate.

19 (j) "Resident."

20 (1) Any natural person:

21 (i) who is domiciled in this Commonwealth; or

22 (ii) who maintains a permanent place of abode within  
23 this Commonwealth and spends in the aggregate more than  
24 60 days of the year within this Commonwealth.

25 (2) Any corporation:

26 (i) incorporated under the laws of this  
27 Commonwealth;

28 (ii) authorized to do business or doing business  
29 within this Commonwealth; or

30 (iii) maintaining a place of business within this



1 Commonwealth.

2 (3) Any association, fiduciary, partnership or other  
3 entity:

4 (i) domiciled in this Commonwealth;

5 (ii) authorized to do business or doing business  
6 within this Commonwealth; or

7 (iii) maintaining a place of business within this  
8 Commonwealth.

9 (k) "Sale at retail."

10 (1) Any transfer, for a consideration, of the ownership,  
11 custody or possession of tangible personal property,  
12 including the grant of a license to use or consume whether  
13 the transfer is absolute or conditional and by any means the  
14 transfer is effected.

15 (2) The rendition of the service of printing or  
16 imprinting of tangible personal property for a consideration  
17 for persons who furnish, either directly or indirectly, the  
18 materials used in the printing or imprinting.

19 (3) The rendition for a consideration of the service of:

20 (i) washing, cleaning, waxing, polishing or  
21 lubricating of motor vehicles of another, regardless of  
22 whether any tangible personal property is transferred in  
23 conjunction with the activity; and

24 (ii) inspecting motor vehicles pursuant to the  
25 mandatory requirements of 75 Pa.C.S. (relating to  
26 vehicles).

27 (4) The rendition for a consideration of the service of  
28 repairing, altering, mending, pressing, fitting, dyeing,  
29 laundering, drycleaning or cleaning tangible personal  
30 property including, but not limited to, wearing apparel or

1 shoes, or applying or installing tangible personal property  
2 as a repair or replacement part of other tangible personal  
3 property including, but not limited to, wearing apparel or  
4 shoes for a consideration, regardless of whether the services  
5 are performed directly or by any means other than by coin-  
6 operated self-service laundry equipment for wearing apparel  
7 or household goods and whether or not any tangible personal  
8 property is transferred in conjunction with the activity,  
9 including such services as are rendered in the construction,  
10 reconstruction, remodeling, repair or maintenance of real  
11 estate.

12 (5) (Reserved).

13 (6) (Reserved).

14 (7) (Reserved).

15 (8) Any retention of possession, custody or a license to  
16 use or consume tangible personal property or any further  
17 obtaining of services described in subclauses (2), (3) and  
18 (4) of this clause pursuant to a rental or service contract  
19 or other arrangement (other than as security). The term does  
20 not include:

21 (i) any transfer of tangible personal property or  
22 rendition of services for the purpose of resale; or

23 (ii) the rendition of services or the transfer of  
24 tangible personal property, including, but not limited  
25 to, machinery and equipment and their parts and supplies  
26 to be used or consumed by the purchaser directly in the  
27 operations of:

28 (A) The manufacture of tangible personal  
29 property.

30 (B) Farming, dairying, agriculture, horticulture

1 or floriculture when engaged in as a business  
2 enterprise. The term "farming" includes the  
3 propagation and raising of ranch raised fur-bearing  
4 animals and the propagation of game birds for  
5 commercial purposes by holders of propagation permits  
6 issued under 34 Pa.C.S. (relating to game) and the  
7 propagation and raising of horses to be used  
8 exclusively for commercial racing activities.

9 (C) The producing, delivering or rendering of a  
10 public utility service, or in constructing,  
11 reconstructing, remodeling, repairing or maintaining  
12 the facilities which are directly used in producing,  
13 delivering or rendering the service.

14 (D) Processing as defined in clause (d). The  
15 exclusions provided in this paragraph or paragraph  
16 (A), (B) or (C) do not apply to any vehicle required  
17 registered under 75 Pa.C.S. (relating to vehicles),  
18 except those vehicles used directly by a public  
19 utility engaged in business as a common carrier; to  
20 maintenance facilities; or to materials, supplies or  
21 equipment to be used or consumed in the construction,  
22 reconstruction, remodeling, repair or maintenance of  
23 real estate other than directly used machinery,  
24 equipment, parts or foundations that may be affixed  
25 to such real estate. The exclusions provided in this  
26 paragraph or paragraph (A), (B) or (C) do not apply  
27 to tangible personal property or services to be used  
28 or consumed in managerial sales or other  
29 nonoperational activities, nor to the purchase or use  
30 of tangible personal property or services by any

1 person other than the person directly using the same  
2 in the operations described in this paragraph or  
3 paragraph (A), (B) or (C).

4 The exclusion provided in paragraph (C) does not apply to:

5 (i) construction materials, supplies or equipment  
6 used to construct, reconstruct, remodel, repair or  
7 maintain facilities not used directly by the purchaser in  
8 the production, delivering or rendition of public utility  
9 service;

10 (ii) construction materials, supplies or equipment  
11 used to construct, reconstruct, remodel, repair or  
12 maintain a building, road or similar structure; or

13 (iii) tools and equipment used but not installed in  
14 the maintenance of facilities used directly in the  
15 production, delivering or rendition of a public utility  
16 service. The exclusions provided in paragraphs (A), (B),  
17 (C) and (D) do not apply to the services enumerated in  
18 clauses (k)(11) through (18) and (w) through (kk), except  
19 that the exclusion provided in this subclause for  
20 farming, dairying and agriculture shall apply to the  
21 service enumerated in clause (z).

22 (9) Where tangible personal property or services are  
23 utilized for purposes constituting a sale at retail and for  
24 purposes excluded from the definition of "sale at retail," it  
25 shall be presumed that the tangible personal property or  
26 services are utilized for purposes constituting a sale at  
27 retail and subject to tax unless the user proves to the  
28 department that the predominant purposes for which such  
29 tangible personal property or services are utilized do not  
30 constitute a sale at retail.

1           (10) The term, with respect to liquor and malt or brewed  
2 beverages, includes the sale of liquor by any Pennsylvania  
3 liquor store to any person for any purpose, and the sale of  
4 malt or brewed beverages by a manufacturer of malt or brewed  
5 beverages, distributor or importing distributor to any person  
6 for any purpose, except sales by a manufacturer of malt or  
7 brewed beverages to a distributor or importing distributor or  
8 sales by an importing distributor to a distributor within the  
9 meaning of the act of April 12, 1951 (P.L.90, No.21), known  
10 as the Liquor Code. The term does not include any sale of  
11 malt or brewed beverages by a retail dispenser or any sale of  
12 liquor or malt or brewed beverages by a person holding a  
13 retail liquor license within the meaning of and pursuant to  
14 the provisions of the Liquor Code, but shall include any sale  
15 of liquor or malt or brewed beverages other than pursuant to  
16 the provisions of the Liquor Code.

17           (11) The rendition for a consideration of lobbying  
18 services.

19           (12) The rendition for a consideration of adjustment  
20 services, collection services or credit reporting services.

21           (13) The rendition for a consideration of secretarial or  
22 editing services.

23           (14) The rendition for a consideration of disinfecting  
24 or pest control services, building maintenance or cleaning  
25 services.

26           (15) The rendition for a consideration of employment  
27 agency services or help supply services.

28           (16) (Reserved).

29           (17) The rendition for a consideration of lawn care  
30 service.

1           (18) The rendition for a consideration of self-storage  
2 service.

3           (19) The rendition for a consideration of a mobile  
4 telecommunications service.

5           (20) (i) The rendition for a consideration of any  
6 service, other than physician or dental services, when  
7 the primary objective of the purchaser is the receipt of  
8 any benefit of the service performed, as distinguished  
9 from the receipt of property. In determining what is a  
10 service, the intended use or stated objective of the  
11 contracting parties shall not necessarily be controlling.

12           (ii) Any service performed in this Commonwealth  
13 shall be subject to the tax imposed under this chapter  
14 unless specifically exempted in this chapter. With  
15 respect to services, other than telecommunication  
16 services, the services shall be considered to be  
17 performed in this Commonwealth if:

18                   (A) performed completely in this Commonwealth;

19                   (B) performed partially in this Commonwealth and  
20 partially outside this Commonwealth when the  
21 recipient or user of the service is located in this  
22 Commonwealth;

23                   (C) performed partially in this Commonwealth and  
24 partially outside this Commonwealth if the recipient  
25 or user of the service is not located in this  
26 Commonwealth, but only to the extent of those  
27 services actually performed in this Commonwealth; or

28                   (D) the place of performance cannot be  
29 determined if the recipient or user of the service is  
30 located in this Commonwealth.

1           (iii) With respect to services, other than  
2           telecommunication services, the services performed  
3           partially in this Commonwealth and partially outside this  
4           Commonwealth shall be presumed to have been performed  
5           completely in this Commonwealth unless the taxpayer can  
6           show the place of performance by clear and convincing  
7           evidence.

8           (iv) With respect to interstate telecommunications  
9           services, only those charges for interstate  
10          telecommunications which originate or are terminated in  
11          this Commonwealth and which are billed and charged to a  
12          service address in this Commonwealth shall be subject to  
13          tax.

14          (v) With respect to services, other than  
15          telecommunication services, that are performed in this  
16          Commonwealth for a recipient or user of the services  
17          located in another state in which the services, had they  
18          been performed in that state, would not be subject to a  
19          sales or use tax under the laws of that state, then no  
20          tax may be imposed under this chapter.

21          (vi) The tax on the sale or use of services shall  
22          become due at the time payment or other consideration is  
23          made for the portion of services actually paid.

24          (1) "Storage." Any keeping or retention of tangible  
25          personal property within this Commonwealth for any purpose  
26          including the interim keeping, retaining or exercising any right  
27          or power over such tangible personal property. This term is in  
28          no way limited to the provision of self-storage service.

29          (m) "Tangible personal property." Corporeal personal  
30          property including, but not limited to, goods, wares,

1 merchandise, steam and natural and manufactured and bottled gas  
2 for non-residential use, electricity for non-residential use,  
3 prepaid telecommunications, premium cable or premium video  
4 programming service, spirituous or vinous liquor and malt or  
5 brewed beverages and soft drinks, interstate telecommunications  
6 service originating or terminating in this Commonwealth and  
7 charged to a service address in this Commonwealth, intrastate  
8 telecommunications service with the exception of:

9           (1) Subscriber line charges and basic local telephone  
10       service for residential use.

11           (2) Charges for telephone calls paid for by inserting  
12       money into a telephone accepting direct deposits of money to  
13       operate, provided further, the service address of any  
14       intrastate telecommunications service is deemed to be within  
15       this Commonwealth or within a political subdivision,  
16       regardless of how or where billed or paid.

17 In the case of any interstate or intrastate telecommunications  
18 service, any charge paid through a credit or payment mechanism  
19 which does not relate to a service address, such as a bank,  
20 travel, credit or debit card, but not including prepaid  
21 telecommunications, is deemed attributable to the address of  
22 origination of the telecommunications service.

23       (n) "Taxpayer." Any person required to pay or collect the  
24 tax imposed by this chapter.

25       (o) "Use."

26           (1) The exercise of any right or power incidental to the  
27       ownership, custody or possession of tangible personal  
28       property and includes, but is not limited to, transportation,  
29       storage or consumption.

30           (2) The obtaining by a purchaser of the service of



1 printing or imprinting of tangible personal property when the  
2 purchaser furnishes, either directly or indirectly, the  
3 articles used in the printing or imprinting.

4 (3) The obtaining by a purchaser of the services of:

5 (i) washing, cleaning, waxing, polishing or  
6 lubricating of motor vehicles regardless of whether any  
7 tangible personal property is transferred to the  
8 purchaser in conjunction with the services; and

9 (ii) inspecting motor vehicles pursuant to the  
10 mandatory requirements of 75 Pa.C.S. (relating to  
11 vehicles).

12 (4) The obtaining by a purchaser of the service of  
13 repairing, altering, mending, pressing, fitting, dyeing,  
14 laundering, drycleaning or cleaning tangible personal  
15 property, including, but not limited to, wearing apparel or  
16 shoes or applying or installing tangible personal property as  
17 a repair or replacement part of other tangible personal  
18 property, including, but not limited to, wearing apparel or  
19 shoes, regardless of whether the services are performed  
20 directly or by any means other than by means of coin-operated  
21 self-service laundry equipment for wearing apparel or  
22 household goods, and regardless of whether any tangible  
23 personal property is transferred to the purchaser in  
24 conjunction with the activity. The term use does not include:

25 (A) Any tangible personal property acquired and  
26 kept, retained or over which power is exercised  
27 within this Commonwealth on which the taxing of the  
28 storage, use or other consumption thereof is  
29 expressly prohibited by the Constitution of the  
30 United States or which is excluded from tax under

1           other provisions of this chapter.

2           (B) The use or consumption of tangible personal  
3           property, including, but not limited to, machinery  
4           and equipment and parts therefor, and supplies or the  
5           obtaining of the services described in subclauses  
6           (2), (3) and (4) of this clause directly in the  
7           operations of:

8           (i) The manufacture of tangible personal property.

9           (ii) Farming, dairying, agriculture, horticulture or  
10          floriculture when engaged in as a business enterprise.  
11          The term includes the propagation and raising of ranch-  
12          raised furbearing animals and the propagation of game  
13          birds for commercial purposes by holders of propagation  
14          permits issued under 34 Pa.C.S. (relating to game) and  
15          the propagation and raising of horses to be used  
16          exclusively for commercial racing activities.

17          (iii) The producing, delivering or rendering of a  
18          public utility service, or in constructing,  
19          reconstructing, remodeling, repairing or maintaining the  
20          facilities which are directly used in producing,  
21          delivering or rendering such service.

22          (iv) Processing as defined in subclause (d).  
23          The exclusions provided in subparagraphs (i), (ii), (iii)  
24          and (iv) do not apply to any vehicle required to be  
25          registered under 75 Pa.C.S. (relating to vehicles) except  
26          those vehicles directly used by a public utility engaged  
27          in the business as a common carrier; to maintenance  
28          facilities; or to materials, supplies or equipment to be  
29          used or consumed in the construction, reconstruction,  
30          remodeling, repair or maintenance of real estate other

1 than directly used machinery, equipment, parts or  
2 foundations therefor that may be affixed to such real  
3 estate. The exclusions provided in subparagraphs (i),  
4 (ii), (iii) and this subparagraph do not apply to  
5 tangible personal property or services to be used or  
6 consumed in managerial sales or other nonoperational  
7 activities, nor to the purchase or use of tangible  
8 personal property or services by any person other than  
9 the person directly using the same in the operations  
10 described in subparagraphs (i), (ii), (iii) and this  
11 subparagraph. The exclusion provided in subparagraph  
12 (iii) does not apply to:

13 (A) construction materials, supplies or  
14 equipment used to construct, reconstruct, remodel,  
15 repair or maintain facilities not used directly by  
16 the purchaser in the production, delivering or  
17 rendition of public utility service; or

18 (B) tools and equipment used but not installed  
19 in the maintenance of facilities used directly in the  
20 production, delivering or rendition of a public  
21 utility service.

22 The exclusion provided in subparagraphs (i), (ii), (iii)  
23 and this subparagraph does not apply to the services  
24 enumerated in clauses (9) through (16) and (w) through  
25 (kk), except that the exclusion provided in subparagraph  
26 (ii) for farming, dairying and agriculture shall apply to  
27 the service enumerated in clause (z).

28 (5) Where tangible personal property or services are  
29 utilized for purposes constituting a use, and for purposes  
30 excluded from the definition of "use," it shall be presumed

1 that the property or services are utilized for purposes  
2 constituting a sale at retail and subject to tax unless the  
3 user proves to the department that the predominant purposes  
4 for which the property or services are utilized do not  
5 constitute a sale at retail.

6 (6) The term, with respect to liquor and malt or brewed  
7 beverages, includes the purchase of liquor from any  
8 Pennsylvania Liquor Store by any person for any purpose and  
9 the purchase of malt or brewed beverages from a manufacturer  
10 of malt or brewed beverages, distributor or importing  
11 distributor by any person for any purpose, except purchases  
12 from a manufacturer of malt or brewed beverages by a  
13 distributor or importing distributor, or purchases from an  
14 importing distributor by a distributor within the meaning of  
15 the act of April 12, 1951 (P.L.90, No.21), known as the  
16 Liquor Code. The term does not include any purchase of malt  
17 or brewed beverages from a retail dispenser or any purchase  
18 of liquor or malt or brewed beverages from a person holding a  
19 retail liquor license within the meaning of and pursuant to  
20 the provisions of the Liquor Code, but includes the exercise  
21 of any right or power incidental to the ownership, custody or  
22 possession of liquor or malt or brewed beverages obtained by  
23 the person exercising the right or power in any manner other  
24 than pursuant to the provisions of the Liquor Code.

25 (7) The use of tangible personal property purchased at  
26 retail on which the services described in subclauses (2), (3)  
27 and (4) of this clause have been performed shall be deemed to  
28 be a use of said services by the person using the property.

29 (8) (Reserved).

30 (9) The obtaining by the purchaser of lobbying services.

1           (10) The obtaining by the purchaser of adjustment  
2 services, collection services or credit reporting services.

3           (11) The obtaining by the purchaser of secretarial or  
4 editing services.

5           (12) The obtaining by the purchaser of disinfecting or  
6 pest control services, building maintenance or cleaning  
7 services.

8           (13) The obtaining by the purchaser of employment agency  
9 services or help supply services.

10          (14) (Reserved).

11          (15) The obtaining by the purchaser of lawn care  
12 service.

13          (16) The obtaining by the purchaser of self-storage  
14 service.

15          (17) The obtaining by a construction contractor of  
16 tangible personal property or services provided to tangible  
17 personal property which will be used pursuant to a  
18 construction contract regardless of whether the tangible  
19 personal property or services are transferred.

20          (18) The obtaining of mobile telecommunications service  
21 by a customer.

22          (19) (i) The obtaining by the purchaser of any service,  
23 not otherwise set forth in this definition, other than  
24 physician or dental services, when the primary objective  
25 of the purchaser is the receipt of any benefit of the  
26 service performed, as distinguished from the receipt of  
27 property. In determining what is a service, the intended  
28 use or stated objective of the contracting parties shall  
29 not necessarily be controlling.

30          (ii) Any service performed in this Commonwealth

1 shall be subject to the tax imposed under this chapter  
2 unless specifically exempted in this chapter. With  
3 respect to services, other than telecommunication  
4 services, such services shall be considered to be  
5 performed in this Commonwealth if:

6 (A) performed completely in this Commonwealth;

7 (B) performed partially in this Commonwealth and  
8 partially outside this Commonwealth when the  
9 recipient or user of the service is located in this  
10 Commonwealth;

11 (C) performed partially in this Commonwealth and  
12 partially outside this Commonwealth if the recipient  
13 or user of the service is not located in this  
14 Commonwealth, but only to the extent of those  
15 services actually performed in this Commonwealth; or

16 (D) the place of performance cannot be  
17 determined if the recipient or user of the service is  
18 located in this Commonwealth.

19 (iii) With respect to services, other than  
20 telecommunication services, such services performed  
21 partially in this Commonwealth and partially outside this  
22 Commonwealth shall be presumed to have been performed  
23 completely in this Commonwealth unless the taxpayer shows  
24 the place of performance by clear and convincing  
25 evidence.

26 (iv) With respect to interstate telecommunications  
27 services, only those charges for interstate  
28 telecommunications which originate or are terminated in  
29 this Commonwealth and which are billed and charged to a  
30 service address in this Commonwealth shall be subject to

1 tax.

2 (v) With respect to services, other than  
3 telecommunication services, that are performed in this  
4 Commonwealth for a recipient or user of the services  
5 located in another state in which the services, had they  
6 been performed in that state, would not be subject to a  
7 sales or use tax under the laws of that state, then no  
8 tax may be imposed under this chapter.

9 (p) "Vendor." Any person maintaining a place of business in  
10 this Commonwealth, selling or leasing tangible personal  
11 property, or rendering services, the sale or use of which is  
12 subject to the tax imposed by this chapter but not including any  
13 employee who in the ordinary scope of employment renders  
14 services to his employer in exchange for wages and salaries.

15 (q) (Reserved).

16 (r) "Gratuity." Any amount paid or remitted for services  
17 performed in conjunction with any sale of food or beverages, or  
18 hotel or motel accommodations which amount is in excess of the  
19 charges and the tax for such food, beverages or accommodations  
20 regardless of the method of billing or payment.

21 (s) "Commercial aircraft operator." A person, excluding a  
22 scheduled airline who engages in any or all of the following:  
23 charter of aircraft, leasing of aircraft, aircraft sales,  
24 aircraft rental, flight instruction, air freight or any other  
25 flight activities for compensation.

26 (t) "Transient vendor."

27 (1) Any person who:

28 (i) brings into this Commonwealth, by automobile,  
29 truck or other means of transportation, or purchases in  
30 this Commonwealth tangible personal property the sale or

1 use of which is subject to the tax imposed by this  
2 chapter or comes into this Commonwealth to perform  
3 services the sale or use of which is subject to the tax  
4 imposed by this chapter;

5 (ii) offers or intends to offer the tangible  
6 personal property or services for sale at retail within  
7 this Commonwealth; and

8 (iii) does not maintain an established office,  
9 distribution house, saleshouse, warehouse, service  
10 enterprise, residence from which business is conducted or  
11 other place of business within this Commonwealth.

12 (2) The term does not include a person who delivers  
13 tangible personal property within this Commonwealth pursuant  
14 to orders for the property which were solicited or placed by  
15 mail or other means.

16 (3) The term does not include a person who handcrafts  
17 items for sale at special events, including, but not limited  
18 to, fairs, carnivals, art and craft shows and other festivals  
19 and celebrations within this Commonwealth.

20 (u) "Promoter." A person who either, directly or  
21 indirectly, rents, leases or otherwise operates or grants  
22 permission to any person to use space at a show for the display  
23 for sale or for the sale of tangible personal property or  
24 services subject to tax under section 702.

25 (v) "Show." An event, the primary purpose of which involves  
26 the display or exhibition of any tangible personal property or  
27 services for sale, including, but not limited to, a flea market,  
28 antique show, coin show, stamp show, comic book show, hobby  
29 show, automobile show, fair or any similar show, whether held  
30 regularly or of a temporary nature, at which more than one



1 vendor displays for sale or sells tangible personal property or  
2 services subject to tax under section 702.

3 (w) "Lobbying services." Providing the services of a  
4 lobbyist, as defined in the definition of "lobbyist" in 65  
5 Pa.C.S. Ch. 13 (relating to lobby regulation and disclosures).

6 (x) "Adjustment services, collection services or credit  
7 reporting services." Providing collection or adjustments of  
8 accounts receivable or mercantile or consumer credit reporting,  
9 including, but not limited to, services of the type provided by  
10 adjustment bureaus or collection agencies, consumer or  
11 mercantile credit reporting bureaus, credit bureaus or agencies,  
12 credit clearinghouses or credit investigation services. The term  
13 does not include providing credit card service with collection  
14 by a central agency, providing debt counseling or adjustment  
15 services to individuals or billing or collection services  
16 provided by local exchange telephone companies.

17 (y) "Secretarial or editing services." Providing services  
18 which include, but are not limited to, editing, letter writing,  
19 proofreading, resume writing, typing or word processing. The  
20 term does not include court reporting and stenographic services.

21 (z) "Disinfecting or pest control services." Providing  
22 disinfecting, termite control, insect control, rodent control or  
23 other pest control services. The term includes, but is not  
24 limited to, deodorant servicing of rest rooms, washroom  
25 sanitation service, rest room cleaning service, extermination  
26 service or fumigating service. As used in this clause, the term  
27 "fumigating service" does not include the fumigation of  
28 agricultural commodities or containers used for agricultural  
29 commodities. As used in this clause, the term "insect control"  
30 does not include the gypsy moth control spraying of trees which

1 are harvested for commercial purposes.

2 (aa) "Building maintenance or cleaning services." Providing  
3 services which include, but are not limited to, janitorial, maid  
4 or housekeeping service, office or interior building cleaning or  
5 maintenance service, window cleaning service, floor waxing  
6 service, lighting maintenance service such as bulb replacement,  
7 cleaning, chimney cleaning service, acoustical tile cleaning  
8 service, venetian blind cleaning, cleaning and maintenance of  
9 telephone booths or cleaning and degreasing of service stations.  
10 The term does not include: repairs on buildings and other  
11 structures; the maintenance or repair of boilers, furnaces and  
12 residential air conditioning equipment or their parts; the  
13 painting, wallpapering or applying other like coverings to  
14 interior walls, ceilings or floors; or the exterior painting of  
15 buildings.

16 (bb) "Employment agency services." Providing employment  
17 services to a prospective employer or employee other than  
18 employment services provided by theatrical employment agencies  
19 and motion picture casting bureaus. The term includes, but is  
20 not limited to, services of the type provided by employment  
21 agencies, executive placing services and labor contractor  
22 employment agencies other than farm labor.

23 (cc) "Help supply services." Providing temporary or  
24 continuing help where the help supplied is on the payroll of the  
25 supplying person or entity, but is under the supervision of the  
26 individual or business to which help is furnished. The term  
27 includes, but is not limited to, service of a type provided by  
28 labor and manpower pools, employee leasing services, office help  
29 supply services, temporary help services, usher services,  
30 modeling services or fashion show model supply services. The

1 term does not include: providing farm labor services or human  
2 health-related services, including nursing, home health care and  
3 personal care. As used in this clause, "personal care" shall  
4 include providing at least one of the following types of  
5 assistance to persons with limited ability for self-care:

6 (1) dressing, bathing or feeding;

7 (2) supervising self-administered medication;

8 (3) transferring a person to or from a bed or  
9 wheelchair; or

10 (4) routine housekeeping chores when provided in  
11 conjunction with and supplied by the same provider of the  
12 assistance listed in subclause (1), (2) or (3).

13 (dd) (Reserved).

14 (ee) (Reserved).

15 (ff) (Reserved).

16 (gg) (Reserved).

17 (hh) (Reserved).

18 (ii) (Reserved).

19 (jj) "Lawn care service." Providing services for lawn  
20 upkeep, including, but not limited to, fertilizing, lawn mowing,  
21 shrubbery trimming or other lawn treatment services.

22 (kk) "Self-storage service." Providing a building, a room  
23 in a building or a secured area within a building with separate  
24 access provided for each purchaser of self-storage service,  
25 primarily for the purpose of storing personal property. The term  
26 does not include service involving:

27 (1) safe deposit boxes by financial institutions;

28 (2) storage in refrigerator or freezer units;

29 (3) storage in commercial warehouses;

30 (4) facilities for goods distribution; and

(5) lockers in airports, bus stations, museums and other public places.

(11) "Premium cable or premium video programming service."

That portion of cable television services, video programming services, community antenna television services or any other distribution of television, video, audio or radio services which meets all of the following criteria:

(1) is transmitted with or without the use of wires to purchasers;

(2) which consists substantially of programming uninterrupted by paid commercial advertising, including, but not limited to, programming primarily composed of uninterrupted full-length motion pictures or sporting events, pay-per-view, paid programming or like audio or radio broadcasting; and

(3) does not constitute a component of a basic service tier provided by a cable television system or a cable programming service tier provided by a cable television system. A basic service tier includes all signals of domestic television broadcast stations, any public, educational, governmental or religious programming and any additional video programming signals or service added to the basic service tier by the cable operator. The basic service tier also includes a single additional lower-priced package of broadcast channels and access information channels which is a subset of the basic service tier as set forth above. A cable programming service tier includes any video programming other than:

(i) the basic service tier;

(ii) video programming offered on a pay-per-channel

1           or pay-per-view basis; or  
2           (iii) a combination of multiple channels of pay-per-  
3           channel or pay-per-view programming offered as a package.

4 If a purchaser receives or agrees to receive premium cable or  
5 premium video programming service, then the following charges  
6 are included in the purchase price: charges for installation or  
7 repair of any premium cable or premium video programming  
8 service, upgrade to include additional premium cable or premium  
9 video programming service, downgrade to exclude all or some  
10 premium cable or premium video programming service, additional  
11 premium cable outlets in excess of ten or any other charge or  
12 fee related to premium cable or premium video programming  
13 services. The term does not apply to: transmissions by public  
14 television, public radio services or official Federal, State or  
15 local government cable services; local origination programming  
16 which provides a variety of public service programs unique to  
17 the community, programming which provides coverage of public  
18 affairs issues which are presented without commentary or  
19 analysis, including United States Congressional proceedings, or  
20 programming which is substantially related to religious  
21 subjects; or subscriber charges for access to a video dial tone  
22 system or charges by a common carrier to a video programmer for  
23 the transport of video programming.

24       (mm) (Reserved).

25       (nn) "Construction contract." A written or oral contract or  
26 agreement for the construction, reconstruction, remodeling,  
27 renovation or repair of real estate or a real estate structure.  
28 The term shall not apply to services which are taxable under  
29 clauses (k)(14) and (17) and (o)(12) and (15).

30       (oo) "Construction contractor." A person who performs an

1 activity pursuant to a construction contract, including a  
2 subcontractor.

3 (pp) "Building machinery and equipment." Generation  
4 equipment, storage equipment, conditioning equipment,  
5 distribution equipment and termination equipment, limited to the  
6 following:

7 (1) air conditioning limited to heating, cooling,  
8 purification, humidification, dehumidification and  
9 ventilation;

10 (2) electrical;

11 (3) plumbing;

12 (4) communications limited to voice, video, data, sound,  
13 master clock and noise abatement;

14 (5) alarms limited to fire, security and detection;

15 (6) control system limited to energy management, traffic  
16 and parking lot and building access;

17 (7) medical system limited to diagnosis and treatment  
18 equipment, medical gas, nurse call and doctor paging;

19 (8) laboratory system;

20 (9) cathodic protection system; or

21 (10) furniture, cabinetry and kitchen equipment.

22 The term includes boilers, chillers, air cleaners, humidifiers,  
23 fans, switchgear, pumps, telephones, speakers, horns, motion  
24 detectors, dampers, actuators, grills, registers, traffic  
25 signals, sensors, card access devices, guardrails, medial  
26 devices, floor troughs and grates and laundry equipment,  
27 together with integral coverings and enclosures, regardless of  
28 whether: the item constitutes a fixture or is otherwise affixed  
29 to the real estate; damage would be done to the item or its  
30 surroundings on removal; or the item is physically located

1 within a real estate structure. The term does not include  
2 guardrail posts, pipes, fittings, pipe supports and hangers,  
3 valves, underground tanks, wire, conduit, receptacle and  
4 junction boxes, insulation, ductwork and coverings.

5 (qq) "Real estate structure." A structure or item purchased  
6 by a construction contractor pursuant to a construction contract  
7 with:

8 (1) a charitable organization, a volunteer firemen's  
9 organization, a nonprofit educational institution or a  
10 religious organization for religious purposes and which  
11 qualifies as an institution of purely public charity under  
12 the act of November 26, 1997 (P.L.508, No.55), known as the  
13 Institutions of Purely Public Charity Act;

14 (2) the United States; or

15 (3) the Commonwealth, its instrumentalities or political  
16 subdivisions.

17 The term includes building machinery and equipment; developed or  
18 undeveloped land; streets; roads; highways; parking lots;  
19 stadiums and stadium seating; recreational courts; sidewalks;  
20 foundations; structural supports; walls; floors; ceilings;  
21 roofs; doors; canopies; millwork; elevators; windows and  
22 external window coverings; outdoor advertising boards or signs;  
23 airport runways; bridges; dams; dikes; traffic control devices,  
24 including traffic signs; satellite dishes; antennas; guardrail  
25 posts; pipes; fittings; pipe supports and hangers; valves;  
26 underground tanks; wire; conduit; receptacle and junction boxes;  
27 insulation; ductwork and coverings; and any structure or item  
28 similar to any of the foregoing, regardless of whether the  
29 structure or item constitutes a fixture or is affixed to the  
30 real estate; or damage would be done to the structure or item or

1 its surroundings on removal.

2 (rr) "Telecommunications service." Any one-way transmission  
3 or any two-way, interactive transmission of sounds, signals or  
4 other intelligence converted to like form which effects or is  
5 intended to effect meaningful communications by electronic or  
6 electromagnetic means via wire, cable, satellite, light waves,  
7 microwaves, radio waves or other transmission media. The term  
8 includes all types of telecommunication transmissions, local,  
9 toll, wide-area or any other type of telephone service; private  
10 line service; telegraph service; radio repeater service;  
11 wireless communication service; personal communications system  
12 service; cellular telecommunication service; specialized mobile  
13 radio service; stationary two-way radio service; and paging  
14 service. The term does not include any of the following:

15 (1) Subscriber charges for access to a video dial tone  
16 system.

17 (2) Charges to video programmers for the transport of  
18 video programming.

19 (3) Charges for access to the Internet. Access to the  
20 Internet does not include any of the following:

21 (i) The transport over the Internet or any  
22 proprietary network using the Internet protocol of  
23 telephone calls, facsimile transmissions or other  
24 telecommunications traffic to or from end users on the  
25 public switched telephone network if the signal sent from  
26 or received by an end user is not in an Internet  
27 protocol.

28 (ii) Telecommunication services purchased by an  
29 Internet service provider to deliver access to the  
30 Internet to its customers.



1           (4) Mobile telecommunications services.

2           (ss) "Internet." The international nonproprietary computer  
3 network of both Federal and non-Federal interoperable packet  
4 switched data networks.

5           (tt) "Commercial racing activities." Any of the following:

6           (1) Thoroughbred and harness racing at which pari-mutuel  
7 wagering is conducted under the act of December 17, 1981  
8 (P.L.435, No.135), known as the Race Horse Industry Reform  
9 Act.

10          (2) Fair racing sanctioned by the State Harness Racing  
11 Commission.

12          (uu) "Prepaid telecommunications." A tangible item  
13 containing a prepaid authorization number that can be used  
14 solely to obtain telecommunications service, including any  
15 renewal or increases in the prepaid amount.

16          (vv) "Prebuilt housing." Either of the following:

17          (1) Manufactured housing, including mobile homes, which  
18 bears a label as required by and referred to in the act of  
19 November 17, 1982 (P.L.676, No.192), known as the  
20 Manufactured Housing Construction and Safety Standards  
21 Authorization Act.

22          (2) Industrialized housing as defined in the act of May  
23 11, 1972 (P.L.286, No.70), known as the Industrialized  
24 Housing Act.

25          (ww) "Used prebuilt housing." Prebuilt housing that was  
26 previously subject to a sale to a prebuilt housing purchaser.

27          (xx) "Prebuilt housing builder." A person who makes a  
28 prebuilt housing sale to a prebuilt housing purchaser.

29          (yy) "Prebuilt housing sale." A sale of prebuilt housing to  
30 a prebuilt housing purchaser, including a sale to a landlord,

1 without regard to whether the person making the sale is  
2 responsible for installing the prebuilt housing or whether the  
3 prebuilt housing becomes a real estate structure upon  
4 installation. Temporary installation by a prebuilt housing  
5 builder for display purposes of a unit held for resale shall not  
6 be considered occupancy for residential purposes.

7 (zz) "Prebuilt housing purchaser." A person who purchases  
8 prebuilt housing in a transaction and who intends to occupy the  
9 unit for residential purposes in this Commonwealth.

10 (aaa) "Mobile telecommunications service." Mobile  
11 telecommunications service as that term is defined in the Mobile  
12 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §  
13 116 et seq.).

14 (bbb) "Fiscal Code." The act of April 9, 1929 (P.L.343,  
15 No.176), known as The Fiscal Code.

16 (ccc) "Prepaid mobile telecommunications service." Mobile  
17 telecommunications service which is paid for in advance and  
18 which enables the origination of calls using an access number,  
19 authorization code or both, regardless of whether manually or  
20 electronically dialed, if the remaining amount of units of the  
21 prepaid mobile telecommunications service is known by the  
22 service provider of the prepaid mobile telecommunications  
23 service on a continuous basis. The term does not include the  
24 advance purchase of mobile telecommunications service if the  
25 purchase is pursuant to a service contract between the service  
26 provider and customer and if the service contract requires the  
27 customer to make periodic payments to maintain the mobile  
28 telecommunications service.

29 (ddd) "Call center." The physical location in this  
30 Commonwealth:

- 1           (1) where at least 150 employees are employed to  
2       initiate or answer telephone calls;
- 3           (2) where there are at least 200 telephone lines; and
- 4           (3) which utilizes an automated call distribution system  
5       for customer telephone calls in one or more of the following  
6       activities:
- 7           (i) customer service and support;
- 8           (ii) technical assistance;
- 9           (iii) help desk service;
- 10          (iv) providing information;
- 11          (v) conducting surveys;
- 12          (vi) revenue collections; or
- 13          (vii) receiving orders or reservations.

14 For purposes of this clause, a physical location may include  
15 multiple buildings utilized by a taxpayer located within this  
16 Commonwealth. Transactions for which purchase agreements are  
17 executed after June 30, 2000.

18       (eee) "Dental services." The general and usual services  
19 rendered and care administered by doctors of dental medicine or  
20 doctors of dental surgery, as defined in the act of May 1, 1933  
21 (P.L.216, No.76), known as The Dental Law.

22       (fff) "Physician services." The general and usual services  
23 rendered and care administered by medical doctors, as defined in  
24 the act of December 20, 1985 (P.L.457, No.112), known as the  
25 Medical Practice Act of 1985, or doctors of osteopathy, as  
26 defined in the act of October 5, 1978 (P.L.1109, No.261), known  
27 as the Osteopathic Medical Practice Act.

28       (ggg) "Clothing." All vesture, wearing apparel, raiments,  
29 garments, footwear and other articles of clothing, including  
30 clothing patterns and items that are to be a component part of

1 clothing, worn or carried on or about the human body including,  
2 but not limited to, all accessories, ornamental wear, formal day  
3 or evening apparel and articles made of fur on the hide or pelt  
4 or any material imitative of fur and articles of which such fur,  
5 real, imitation or synthetic, is the component material of chief  
6 value and sporting goods and clothing not normally used or worn  
7 when not engaged in sports.

8 (hhh) "Food and beverages." All food and beverages for  
9 human consumption, including, but not limited to:

10 (1) Soft drinks.

11 (2) Malt and brewed beverages and spiritous and vinous  
12 liquors.

13 (3) Food or beverages, whether sold for consumption on  
14 or off the premises of on a take-out or to go basis or  
15 delivered to the purchaser or consumer, when purchased:

16 (i) from persons engaged in the business of  
17 catering; or

18 (ii) from persons engaged in the business of  
19 operating establishments from which ready-to-eat food and  
20 beverages are sold, including, but not limited to,  
21 restaurants, cafes, lunch counters, private and social  
22 clubs, taverns, dining cars, hotels, night clubs, fast  
23 food operations, pizzerias, fairs, carnivals, lunch  
24 carts, ice cream stands, snack bars, cafeterias, employee  
25 cafeterias, theaters, stadiums, arenas, amusement parks,  
26 carryout shops, coffee shops and other establishments  
27 whether mobile or immobile.

28 For purposes of this clause, a bakery, a pastry shop, a donut  
29 shop, a delicatessen, a grocery store, a supermarket, a farmer's  
30 market, a convenience store or a vending machine shall not be

1 considered an establishment from which food or beverages ready  
2 to eat are sold except for the sale of meals, sandwiches, food  
3 from salad bars, hand-dipped or hand-served ice-based products  
4 including ice cream and yogurt, hot soup, hot pizza and other  
5 hot food items, brewed coffee and hot beverages. For purposes of  
6 this subclause, beverages shall not include malt and brewed  
7 beverages and spiritous and vinous liquors but shall include  
8 soft drinks.

9 SUBCHAPTER B

10 SALES AND USE TAX

11 Section 702. Imposition of tax.

12 (a) Tax on certain sales at retail and uses of tangible  
13 personal property and services.--

14 (1) There is hereby imposed on each separate sale at  
15 retail of tangible personal property or services in this  
16 Commonwealth a tax of 6% of the purchase price, which tax  
17 shall be collected by the vendor from the purchaser, and  
18 shall be paid over to the Commonwealth as provided in this  
19 chapter.

20 (2) There is hereby imposed on the use in this  
21 Commonwealth of tangible personal property purchased at  
22 retail and on those services purchased at retail a tax of 6%  
23 of the purchase price, which tax shall be paid to the  
24 Commonwealth by the person who makes such use as provided  
25 under this chapter, except that the tax shall not be paid to  
26 the Commonwealth by the person where the person has paid the  
27 tax imposed by paragraph (1) or has paid the tax imposed by  
28 this subsection to the vendor with respect to the use.

29 (b) (Reserved).

30 (c) Telecommunications service.--

1           (1) Notwithstanding any other provisions of this  
2 chapter, the tax with respect to telecommunications service  
3 within the meaning of "tangible personal property" in section  
4 701 shall be computed at the rate of 6% on the total amount  
5 charged to customers for the services, irrespective of  
6 whether such charge is based on a flat rate or on a message  
7 unit charge.

8           (2) A telecommunications service provider shall have no  
9 responsibility or liability to the Commonwealth for billing,  
10 collecting or remitting taxes that apply to services,  
11 products or other commerce sold over telecommunications lines  
12 by third-party vendors.

13           (3) To prevent actual multistate taxation of interstate  
14 telecommunications service, any taxpayer, on proof that the  
15 taxpayer has paid a similar tax to another state on the same  
16 interstate telecommunications service, shall be allowed a  
17 credit against the tax imposed by this section on the same  
18 interstate telecommunications service to the extent of the  
19 amount of the tax properly due and paid to the other state.

20           (d) Coin-operated vending machines.--Notwithstanding any  
21 other provisions of this chapter, the sale or use of food and  
22 beverages dispensed by means of coin-operated vending machines  
23 shall be taxed at the rate of 6% of the receipts collected from  
24 any coin-operated vending machine which dispenses food and  
25 beverages that were previously taxable.

26           (e) Prepaid telecommunications.--

27           (1) Notwithstanding any provisions of this chapter, the  
28 sale or use of prepaid telecommunications evidenced by the  
29 transfer of tangible personal property shall be subject to  
30 the tax imposed by subsection (a).

1           (2) The sale or use of prepaid telecommunications not  
2           evidenced by the transfer of tangible personal property shall  
3           be subject to the tax imposed by subsection (a) and shall be  
4           deemed to occur at the purchaser's billing address.

5           (3) (i) Notwithstanding paragraph (2), the sale or use  
6           of prepaid telecommunications service not evidenced by  
7           the transfer of tangible personal property shall be taxed  
8           at the rate of 6% of the receipts collected on each sale  
9           if the service provider elects to collect the tax imposed  
10          by this chapter on receipts of each sale.

11          (ii) The service provider shall notify the  
12          department of its election and shall collect the tax on  
13          receipts of each sale until the service provider notifies  
14          the department otherwise.

15          (e.1) Prepaid mobile telecommunications service.--

16          (1) Notwithstanding any other provision of this chapter,  
17          the sale or use of prepaid mobile telecommunications service  
18          evidenced by the transfer of tangible personal property shall  
19          be subject to the tax imposed by subsection (a).

20          (2) The sale or use of prepaid mobile telecommunications  
21          service not evidenced by the transfer of tangible personal  
22          property shall be subject to the tax imposed by subsection  
23          (a) and shall be deemed to occur at the purchaser's billing  
24          address or the location associated with the mobile telephone  
25          number or the point of sale, whichever is applicable.

26          (3) (i) Notwithstanding paragraph (2), the sale or use  
27          of prepaid mobile telecommunications service not  
28          evidenced by the transfer of tangible personal property  
29          shall be taxed at the rate of 6% of the receipts  
30          collected on each sale if the service provider elects to

1 collect the tax imposed by this chapter on receipts of  
2 each sale.

3 (ii) The service provider shall notify the  
4 department of its election and shall collect the tax on  
5 receipts of each sale until the service provider notifies  
6 the department otherwise.

7 (f) Prebuilt housing.--

8 (1) Notwithstanding any other provision of this chapter,  
9 tax with respect to sales of prebuilt housing shall be  
10 imposed on the prebuilt housing builder at the time of the  
11 prebuilt housing sale within this Commonwealth and shall be  
12 paid and reported by the prebuilt housing builder to the  
13 department in the time and manner provided in this chapter.

14 (2) A manufacturer of prebuilt housing may, at its  
15 option, precollect the tax from the prebuilt housing builder  
16 at the time of sale to the prebuilt housing builder.

17 (3) In any case where prebuilt housing is purchased and  
18 the tax is not paid by the prebuilt housing builder or  
19 precollected by the manufacturer, the prebuilt housing  
20 purchaser shall remit tax directly to the department if the  
21 prebuilt housing is used in this Commonwealth without regard  
22 to whether the prebuilt housing becomes a real estate  
23 structure.

24 (g) Home service providers.--

25 (1) Notwithstanding any other provisions of this chapter  
26 and in accordance with the Mobile Telecommunications Sourcing  
27 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or  
28 use of mobile telecommunications services which are deemed to  
29 be provided to a customer by a home service provider under 4  
30 U.S.C. § 117 (relating to sourcing rules) shall be subject to



1 the tax of 6% of the purchase price, which tax shall be  
2 collected by the home service provider from the customer, and  
3 shall be paid over to the Commonwealth as provided in this  
4 chapter if the customer's place of primary use is located  
5 within this Commonwealth, regardless of where the mobile  
6 telecommunications services originate, terminate or pass  
7 through.

8 (2) For purposes of this subsection, words and phrases  
9 used in this subsection shall have the same meanings given to  
10 them in the Mobile Telecommunications Sourcing Act.

11 Section 703. Computation of tax.

12 (a) Table to be published.--Within 60 days of the effective  
13 date of this section, the department shall prepare and publish  
14 as a notice in the Pennsylvania Bulletin a table setting forth  
15 the amount of tax imposed under section 702 for purchase prices  
16 that are less than \$1.

17 (b) Deposit into Education Operating Fund.--The tax  
18 collected under section 702 shall be deposited into the  
19 Education Operating Fund.

20 SUBCHAPTER C

21 EXCLUSIONS FROM SALES AND USE TAX

22 Section 704. Exclusions from tax.

23 The tax imposed by section 702 shall not be imposed upon any  
24 of the following:

25 (1) The sale at retail or use of tangible personal  
26 property (other than motor vehicles, trailers, semi-trailers,  
27 motor boats, aircraft or other similar tangible personal  
28 property required under either Federal law or laws of this  
29 Commonwealth to be registered or licensed) or services sold  
30 by or purchased from a person not a vendor in an isolated

1 transaction or sold by or purchased from a person who is a  
2 vendor but is not a vendor with respect to the tangible  
3 personal property or services sold or purchased in such  
4 transaction, provided that inventory and stock in trade so  
5 sold or purchased shall not be excluded from the tax by the  
6 provisions of this subsection.

7 (2) The use of tangible personal property purchased by a  
8 nonresident person outside of, and brought into this  
9 Commonwealth for use therein for a period not to exceed seven  
10 days, or for any period of time when such nonresident is a  
11 tourist or vacationer and, in either case not consumed within  
12 the Commonwealth.

13 (3) (i) The use of tangible personal property purchased  
14 outside this Commonwealth for use outside this  
15 Commonwealth by a then nonresident natural person or a  
16 business entity not actually doing business within this  
17 Commonwealth, who later brings the tangible personal  
18 property into this Commonwealth in connection with the  
19 person's or entity's establishment of a permanent  
20 business or residence in this Commonwealth, provided that  
21 the property was purchased more than six months prior to  
22 the date it was first brought into this Commonwealth or  
23 prior to the establishment of the business or residence,  
24 whichever first occurs.

25 (ii) This paragraph shall not apply to tangible  
26 personal property temporarily brought into this  
27 Commonwealth for the performance of contracts for the  
28 construction, reconstruction, remodeling, repairing and  
29 maintenance of real estate.

30 (4) The sale at retail or use of disposable diapers;

1 premoistened wipes; incontinence products; colostomy  
2 deodorants; toilet paper; sanitary napkins, tampons or  
3 similar items used for feminine hygiene; or toothpaste,  
4 toothbrushes or dental floss.

5 (5) The sale at retail or use of steam, natural and  
6 manufactured and bottled gas, fuel oil, electricity or  
7 intrastate subscriber line charges, basic local telephone  
8 service or telegraph service when purchased directly by the  
9 user solely for the user's own residential use and charges  
10 for telephone calls paid for by inserting money into a  
11 telephone accepting direct deposits of money to operate.

12 (6) (Reserved).

13 (7) (Reserved).

14 (8) (Reserved).

15 (9) (Reserved).

16 (10) (i) The sale at retail to or use by any charitable  
17 organization, volunteer firefighters' organization or  
18 nonprofit educational institution or a religious  
19 organization for religious purposes of tangible personal  
20 property or services other than pursuant to a  
21 construction contract.

22 (ii) This paragraph shall not apply with respect to  
23 any tangible personal property or services used in any  
24 unrelated trade or business carried on by the  
25 organization or institution or with respect to any  
26 materials, supplies and equipment used and transferred to  
27 the organization or institution in the construction,  
28 reconstruction, remodeling, renovation, repairs and  
29 maintenance of any real estate structure, other than  
30 building machinery and equipment, except materials and

supplies when purchased by the organization or  
institution for routine maintenance and repairs.

(11) The sale at retail, or use of gasoline and other  
motor fuels, the sales of which are otherwise subject to  
excise taxes under 75 Pa.C.S. Ch. 90 (relating to liquid  
fuels and fuels tax).

(12) (i) The sale at retail to, or use by the United  
States, this Commonwealth or its instrumentalities or  
political subdivisions, nonpublic schools, charter  
schools, cyber charter schools or vocational schools of  
tangible personal property or services.

(ii) This paragraph includes the sale at retail to a  
supervisor of a home education program of tangible  
personal property or services used exclusively for the  
home education program.

(iii) As used in this paragraph, the terms  
"nonpublic school," "charter school," "cyber charter  
school," "vocational school," "supervisor" and "home  
education program" shall have the meanings given to them  
in the Public School Code of 1949.

(13) (Reserved).

(14) (Reserved).

(15) (Reserved).

(16) (Reserved).

(17) The sale at retail or use of prescription  
medicines, drugs or medical supplies, crutches and  
wheelchairs for the use of persons with disabilities and  
invalids, artificial limbs, artificial eyes and artificial  
hearing devices when designed to be worn on the person of the  
purchaser or user, false teeth and materials used by a

dentist in dental treatment, eyeglasses when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser and artificial braces and supports designed solely for the use of persons with disabilities or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including, but not limited to, hospital beds, iron lungs and kidney machines.

(18) The sale at retail or use of coal.

(19) (Reserved).

(20) (Reserved).

(21) (Reserved).

(22) (Reserved).

(23) (Reserved).

(24) (Reserved).

(25) The sale at retail or use of water.

(26) The sale at retail or use of all vesture, wearing apparel, raiments, garments, footwear and other articles of clothing, including clothing patterns and items that are to be a component part of clothing, worn or carried on or about the human body but all accessories, ornamental wear, formal day or evening apparel, and articles made of fur on the hide or pelt or any material imitative of fur and articles of which such fur, real, imitation or synthetic, is the component material of chief value, but only if such value is more than three times the value of the next most valuable component material, and sporting goods and clothing not normally used or worn when not engaged in sports shall not be excluded from the tax.

1 (27) (Reserved).

2 (28) (Reserved).

3 (29) The sale at retail or use of food and beverages for  
4 human consumption, except that this exclusion shall not apply  
5 with respect to:

6 (i) soft drinks;

7 (ii) malt and brewed beverages and spirituous and  
8 vinous liquors;

9 (iii) food or beverages, whether sold for  
10 consumption on or off the premises or on a "take-out" or  
11 "to go" basis or delivered to the purchaser or consumer,  
12 when purchased (A) from persons engaged in the business  
13 of catering; or (B) from persons engaged in the business  
14 of operating establishments from which ready-to-eat food  
15 and beverages are sold, including, but not limited to,  
16 restaurants, cafes, lunch counters, private and social  
17 clubs, taverns, dining cars, hotels, night clubs, fast  
18 food operations, pizzerias, fairs, carnivals, lunch  
19 carts, ice cream stands, snack bars, cafeterias, employee  
20 cafeterias, theaters, stadiums, arenas, amusement parks,  
21 carryout shops, coffee shops and other establishments  
22 whether mobile or immobile. For purposes of this  
23 paragraph, a bakery, a pastry shop, a donut shop, a  
24 delicatessen, a grocery store, a supermarket, a farmer's  
25 market, a convenience store or a vending machine shall  
26 not be considered an establishment from which food or  
27 beverages ready to eat are sold except for the sale of  
28 meals, sandwiches, food from salad bars, hand-dipped or  
29 hand-served iced based products, including ice cream and  
30 yogurt, hot soup, hot pizza and other hot food items,

1 brewed coffee and hot beverages. For purposes of this  
2 subparagraph, beverages shall not include malt and brewed  
3 beverages and spirituous and vinous liquors but shall  
4 include soft drinks. The sale at retail of food and  
5 beverages at or from a school or church in the ordinary  
6 course of the activities of such organization is not  
7 subject to tax. Notwithstanding any other provision of  
8 this paragraph or act to the contrary, the sale at retail  
9 or use of candy or gum, regardless of the location from  
10 which the candy or gum is sold, is subject to tax.

11 (30) (i) The sale at retail or use of any printed or  
12 other form of advertising materials regardless of where  
13 or by whom the advertising material was produced.

14 (ii) This paragraph shall not include the sale at  
15 retail or use of mail order catalogs and direct mail  
16 advertising literature or materials, including electoral  
17 literature or materials, such as envelopes, address  
18 labels and a one-time license to use a list of names and  
19 mailing addresses for each delivery of direct mail  
20 advertising literature or materials, including electoral  
21 literature or materials, through the United States Postal  
22 Service.

23 (31) (Reserved).

24 (32) (Reserved).

25 (33) (Reserved).

26 (34) (Reserved).

27 (35) (Reserved).

28 (36) The sale at retail or use of rail transportation  
29 equipment used in the movement of personalty.

30 (37) (Reserved).

1           (38)   (Reserved).

2           (39)   The sale at retail or use of fish feed purchased by  
3   or on behalf of sportsmen's clubs, fish cooperatives or  
4   nurseries approved by the Pennsylvania Fish Commission.

5           (40)   (Reserved).

6           (41)   (Reserved).

7           (42)   The sale or use of brook trout (*salvelinus*  
8   *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout  
9   (*Salmo gairdneri*).

10          (43)   The sale at retail or use of buses to be used  
11   exclusively for the transportation of children for school  
12   purposes.

13          (44)   The sale at retail or use of firewood.

14          (45)   (Reserved).

15          (46)   The sale at retail or use of tangible personal  
16   property purchased in accordance with the Food Stamp Act of  
17   1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

18          (47)   (Reserved).

19          (48)   (Reserved).

20          (49)   (i)   The sale at retail or use of food and  
21   beverages by nonprofit associations which support sports  
22   programs.

23               (ii)   The following words and phrases when used in  
24   this paragraph shall have the meanings given to them in  
25   this subparagraph unless the context clearly indicates  
26   otherwise:

27               "Nonprofit association."   An entity which is  
28   organized as a nonprofit corporation or nonprofit  
29   unincorporated association under the laws of this  
30   Commonwealth or the United States or any entity which is



1 authorized to do business in this Commonwealth as a  
2 nonprofit corporation or unincorporated association under  
3 the laws of this Commonwealth, including, but not limited  
4 to, youth or athletic associations, volunteer fire,  
5 ambulance, religious, charitable, fraternal, veterans,  
6 civic, or any separately chartered auxiliary of the  
7 foregoing, if organized and operated on a nonprofit  
8 basis.

9 "Sports program." Baseball, softball, football,  
10 basketball, soccer and any other competitive sport  
11 formally recognized as a sport by the United States  
12 Olympic Committee as specified by and under the  
13 jurisdiction of the Amateur Sports Act of 1978 (Public  
14 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic  
15 Union or the National Collegiate Athletic Association.  
16 The term shall be limited to a program or that portion of  
17 a program that is organized for recreational purposes and  
18 whose activities are substantially for such purposes and  
19 which is primarily for participants who are 18 years of  
20 age or younger or whose 19th birthday occurs during the  
21 year of participation or the competitive season,  
22 whichever is longer. There shall, however, be no age  
23 limitation for programs operated for persons with  
24 physical handicaps or persons with mental retardation.

25 "Support." The funds raised from sales are used to  
26 pay the expenses of a sports program or the nonprofit  
27 association sells the food and beverages at a location  
28 where a sports program is being conducted under this  
29 chapter or the Tax Reform Code of 1971.

30 (50) (Reserved).

1 (51) (Reserved).

2 (52) (Reserved).

3 (53) (Reserved).

4 (54) (Reserved).

5 (55) (Reserved).

6 (56) The sale at retail or use of tangible personal  
7 property or services used, transferred or consumed in  
8 installing or repairing equipment or devices designed to  
9 assist persons in ascending or descending a stairway when:

10 (i) The equipment or devices are used by a person  
11 who, by virtue of a physical disability, is unable to  
12 ascend or descend stairs without the aid of such  
13 equipment or device.

14 (ii) The equipment or device is installed or used in  
15 the person's place of residence.

16 (iii) A physician has certified the physical  
17 disability of the person in whose residence the equipment  
18 or device is installed or used.

19 (57) (Reserved).

20 (58) (Reserved).

21 (59) The sale at retail or use of molds and related mold  
22 equipment used directly and predominantly in the manufacture  
23 of products, regardless of whether the person that holds  
24 title to the equipment manufactures a product.

25 (60) (Reserved).

26 (61) (Reserved).

27 (62) The sale at retail or use of tangible personal  
28 property or services which are directly used in farming,  
29 dairying or agriculture when engaged in as a business  
30 enterprise, regardless of whether the sale is made to the

1 person directly engaged in the business enterprise or to a  
2 person contracting with the person directly engaged in the  
3 business enterprise for the production of food.

4 (63) (Reserved).

5 (64) The sale at retail to or use by a construction  
6 contractor, employed by a public school district pursuant to  
7 a construction contract, of any materials and building  
8 supplies which, during construction or reconstruction, are  
9 made part of any public school building utilized for  
10 instructional classroom education within this Commonwealth,  
11 if the construction or reconstruction:

12 (i) is necessitated by a disaster emergency, as  
13 defined in 35 Pa.C.S. § 7102 (relating to definitions);  
14 and

15 (ii) takes place during the period when there is a  
16 declaration of disaster emergency under 35 Pa.C.S. §  
17 7301(c) (relating to general authority of Governor).

18 (65) The sale at retail or use of investment metal  
19 bullion and investment coins. "Investment metal bullion"  
20 means any elementary precious metal which has been put  
21 through a process of smelting or refining, including, but not  
22 limited to, gold, silver, platinum and palladium, and which  
23 is in such state or condition that its value depends upon its  
24 contents and not its form. The term does not include precious  
25 metal which has been assembled, fabricated, manufactured or  
26 processed in one or more specific and customary industrial,  
27 professional, aesthetic or artistic uses. "Investment coins"  
28 means numismatic coins or other forms of money or legal  
29 tender manufactured of gold, silver, platinum, palladium or  
30 other metal and of the United States or any foreign nation

1 with a fair market value greater than any nominal value of  
2 such coins. The term does not include jewelry or works of art  
3 made of coins, nor does it include commemorative medallions.

4 (66) (Reserved).

5 (67) The sale at retail of medical goods or services by  
6 a hospital, as defined in the act of December 20, 1985  
7 (P.L.457, No.112), known as the Medical Practice Act of 1985.

8 (68) The sale at retail of medical or dental services,  
9 including charges for office visits.

10 (69) The sale at retail or use of goods or services that  
11 are part of a Medicare Part B transaction.

12 (70) The sale at retail or use of transportation of  
13 persons provided or funded by the Federal, State or local  
14 government.

15 (71) The sale at retail of insurance premiums.

16 (72) The sale at retail, between an owner of real  
17 property and a financial institution, of a mortgage.

18 (73) An investment or gain on an investment, including,  
19 but not limited to, bank deposits, stocks and bonds,  
20 including any commissions, maintenance costs and other  
21 charges, which commissions, maintenance costs and other  
22 charges related to the making of such investment or a gain  
23 thereon.

24 (74) The rental of real property.

25 (75) The sale at retail of tuition.

26 (76) The sale at retail to or use by a business of any  
27 of the following:

28 (i) Legal services.

29 (ii) Accounting, auditing and bookkeeping services.

30 (iii) Engineering services.

1 (iv) Research.

2 (v) Computer services and data processing.

3 (77) The sale at retail to or use by a person of legal  
4 services rendered by an attorney where the payment is made  
5 pursuant to a contingency fee based upon a percentage of the  
6 amount recovered with respect to a legal claim or dispute.

7 (78) The sale at retail to or use by a person of the  
8 services rendered by or under the supervision of a licensed  
9 real estate broker, associate broker or salesperson in  
10 connection with any aspect of the sale, lease or acquisition  
11 of any interest in real property.

12 (79) The sale at retail, or the use of motion picture  
13 film rented or licensed from a distributor for the purpose of  
14 commercial exhibition.

15 (80) The sale at retail or use of services performed by  
16 minors under 18 years of age.

17 (81) The sale at retail or use of services performed by  
18 any person to the extent that the recipient or user of such  
19 services receives those services free of charge.

20 (82) The sale at retail or use of services provided by  
21 employees to their employers in exchange for wages and  
22 salaries when such services are rendered in the ordinary  
23 course of employment.

24 (83) The sale at retail or use of services performed for  
25 resale in the ordinary course of business of the purchaser or  
26 user of such services.

27 (84) The sale at retail or use of services that are  
28 otherwise taxable that are an integral, inseparable part of  
29 the services that are to be sold or used and that are  
30 taxable.

1 Section 705. Alternate imposition of tax.

2 (a) General rule.--If any person actively and principally  
3 engaged in the business of selling new or used motor vehicles,  
4 trailers or semitrailers, and registered with the department in  
5 the "dealer's class," acquires a motor vehicle, trailer or  
6 semitrailer for the purpose of resale, and prior to such resale,  
7 uses the motor vehicle, trailer or semitrailer for a taxable use  
8 under this chapter or the Tax Reform Code of 1971, the person  
9 may pay a tax equal to 6% of the fair rental value of the motor  
10 vehicle, trailer or semitrailer during use.

11 (b) Aircraft.--A commercial aircraft operator who acquires  
12 an aircraft for the purpose of resale, or lease, or is entitled  
13 to claim another valid exemption at the time of purchase, and  
14 subsequent to the purchase, periodically uses the same aircraft  
15 for a taxable use under this chapter or the Tax Reform Code of  
16 1971, may elect to pay a tax equal to 6% of the fair rental  
17 value of the aircraft during such use.

18 (c) Applicability.--This section shall not apply to the use  
19 of a vehicle as a wrecker, parts truck, delivery truck or  
20 courtesy car.

21 Section 706. Credit against tax.

22 (a) Tax paid to another state.--

23 (1) A credit against the tax imposed by section 702  
24 shall be granted with respect to tangible personal property  
25 or services purchased for use outside the Commonwealth equal  
26 to the tax paid to another state by reason of the imposition  
27 by the other state of a tax similar to the tax imposed by  
28 this chapter.

29 (2) No credit under paragraph (1) shall be granted  
30 unless the other state grants substantially similar tax

1 relief by reason of the payment of tax under this chapter or  
2 under the Tax Reform Code of 1971.

3 (b) Telecommunications services.--A credit against the tax  
4 imposed by section 702 on telecommunications services shall be  
5 granted to a call center for gross receipts tax paid by a  
6 telephone company on the receipts derived from the sale of  
7 incoming and outgoing interstate telecommunications services to  
8 the call center under section 1101(a)(2) of the Tax Reform Code  
9 of 1971. The following apply:

10 (1) A telephone company, on request, shall notify a call  
11 center of the amount of gross receipts tax paid by the  
12 telephone company on the receipts derived from the sale of  
13 incoming and outgoing interstate telecommunications services  
14 to the call center.

15 (2) A call center that is eligible for the credit in  
16 this subsection may apply for a tax credit as set forth in  
17 this subsection.

18 (3) By February 15, a taxpayer must submit an  
19 application to the department for gross receipts tax paid on  
20 the receipts derived from the sale of incoming and outgoing  
21 interstate telecommunications services incurred in the prior  
22 calendar year.

23 (4) By April 15 of the calendar year following the close  
24 of the calendar year during which the gross receipts tax was  
25 incurred, the department shall notify the applicant of the  
26 amount of the applicant's tax credit approved by the  
27 department.

28 (5) The total amount of tax credits provided for in this  
29 subsection and approved by the department shall not exceed  
30 \$30,000,000 in any fiscal year. If the total amount of tax

1 credits applied for by all applicants exceeds the amount  
2 allocated for those credits, then the credit to be received  
3 by each applicant shall be determined as follows:

4 (i) Divide:

5 (A) the tax credit applied for by the applicant;  
6 by

7 (B) the total of all tax credits applied for by  
8 all applicants.

9 (ii) Multiply:

10 (A) the quotient under subparagraph (i); by

11 (B) the amount allocated for all tax credits.

#### 12 SUBCHAPTER D

#### 13 LICENSES

#### 14 Section 708. Licenses.

15 (a) Duty to obtain license.--Every person maintaining a  
16 place of business in this Commonwealth, selling or leasing  
17 services or tangible personal property, the sale or use of which  
18 is subject to tax and who has not obtained a license from the  
19 department, shall, prior to the beginning of business, make  
20 application to the department, on a form prescribed by the  
21 department, for a license. If such person maintains more than  
22 one place of business in this Commonwealth, the license shall be  
23 issued for the principal place of business in this Commonwealth.

24 (b) Criteria for issuance of license.--

25 (1) The department shall, after the receipt of an  
26 application, issue the license applied for under subsection

27 (a) if the applicant filed all required State tax reports and  
28 paid any State taxes not subject to a timely perfected  
29 administrative or judicial appeal or subject to a duly  
30 authorized deferred payment plan. The license shall be



1 nonassignable.

2 (2) All licenses in effect on the effective date of this  
3 section under former Article III of the Tax Reform Code of  
4 1971 and all licenses issued or renewed on or after the  
5 effective date of this section shall be valid for a period of  
6 five years.

7 (b.1) Refusal of license.--

8 (1) If an applicant for a license or any person holding  
9 a license has not filed all required State tax reports and  
10 paid any State taxes not subject to a timely perfected  
11 administrative or judicial appeal or subject to a duly  
12 authorized deferred payment plan, the department may refuse  
13 to issue, may suspend or may revoke said license.

14 (2) The department shall notify the applicant or  
15 licensee of any refusal, suspension or revocation. The notice  
16 shall contain a statement that the refusal, suspension or  
17 revocation may be made public. The notice shall be made by  
18 first class mail.

19 (3) An applicant or licensee aggrieved by the  
20 determination of the department may file an appeal pursuant  
21 to the provisions for administrative appeals in this chapter.  
22 In the case of a suspension or revocation which is appealed,  
23 the license shall remain valid pending a final outcome of the  
24 appeals process.

25 (4) Notwithstanding section 774 or sections 353(f),  
26 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of  
27 1971, or any other provision of law to the contrary, if no  
28 appeal is taken or if an appeal is taken and denied at the  
29 conclusion of the appeal process, the department may  
30 disclose, by publication or otherwise, the identity of a

1 person and the fact that the person's license has been  
2 refused, suspended or revoked under this subsection.  
3 Disclosure may include the basis for refusal, suspension or  
4 revocation.

5 (c) Penalties.--

6 (1) A person that maintains a place of business in this  
7 Commonwealth for the purpose of selling or leasing services  
8 or tangible personal property, the sale or use of which is  
9 subject to tax, without having first been licensed by the  
10 department shall be guilty of a summary offense and, upon  
11 conviction thereof, be sentenced to pay a fine of not less  
12 than \$300 nor more than \$1,500 and, in default thereof, a  
13 term of imprisonment of not less than five days nor more than  
14 30 days.

15 (2) The penalties imposed by this subsection shall be in  
16 addition to any other penalties imposed by this chapter.

17 (3) For purposes of this subsection, the offering for  
18 sale or lease of any service or tangible personal property,  
19 the sale or use of which is subject to tax, during any  
20 calendar day shall constitute a separate violation.

21 (4) The secretary may designate employees of the  
22 department to enforce the provisions of this subsection. The  
23 employees shall exhibit proof of and be within the scope of  
24 the designation when instituting proceedings as provided by  
25 the Pennsylvania Rules of Criminal Procedure.

26 (d) Effect of failure to obtain license.--Failure of any  
27 person to obtain a license shall not relieve that person of  
28 liability to pay the tax imposed by this chapter.

29 SUBCHAPTER E

30 HOTEL OCCUPANCY TAX

1 Section 709. Definitions.

2 (a) General rule.--The following words and phrases when used  
3 in this subchapter shall have the meanings given to them in this  
4 section unless the context clearly indicates otherwise:

5 "Hotel." A building or buildings in which the public may,  
6 for a consideration, obtain sleeping accommodations. The term  
7 does not include any charitable, educational or religious  
8 institution summer camp for children, hospital or nursing home.

9 "Occupancy." The use or possession or the right to the use or  
10 possession by any person, other than a permanent resident, of  
11 any room or rooms in a hotel for any purpose or the right to the  
12 use or possession of the furnishings or to the services and  
13 accommodations accompanying the use and possession of the room  
14 or rooms.

15 "Occupant." A person, other than a permanent resident, who,  
16 for a consideration, uses, possesses or has a right to use or  
17 possess any room or rooms in a hotel under any lease,  
18 concession, permit, right of access, license or agreement.

19 "Operator." Any person who operates a hotel.

20 "Permanent resident." Any occupant who has occupied or has  
21 the right to occupancy of any room or rooms in a hotel for at  
22 least 30 consecutive days.

23 "Rent." The consideration received for occupancy valued in  
24 money, whether received in money or otherwise, including all  
25 receipts, cash, credits and property or services of any kind or  
26 nature, and also any amount for which the occupant is liable for  
27 the occupancy without any deduction. The term "rent" shall not  
28 include a gratuity.

29 (b) Other definitions.--The following words and phrases,  
30 when used in Subchapters D and F, shall, in addition to the

1 meaning ascribed to them by section 701, have the meaning  
2 ascribed to them in this subsection, except where the context  
3 clearly indicates a different meaning:

4 "Maintaining a place of business in this Commonwealth."

5 Being the operator of a hotel in this Commonwealth.

6 "Purchase at retail." Occupancy.

7 "Purchase price." Rent.

8 "Purchaser." Occupant.

9 "Sale at retail." The providing of occupancy to an occupant  
10 by an operator.

11 "Services." Occupancy.

12 "Tangible personal property." Occupancy.

13 "Use." Occupancy.

14 "Vendor." Operator.

15 Section 710. Imposition of tax.

16 There is hereby imposed an excise tax of 6% of the rent on  
17 every occupancy of a room or rooms in a hotel in this  
18 Commonwealth, which tax shall be collected by the operator from  
19 the occupant and paid over to the Commonwealth as provided in  
20 this chapter and deposited into the Education Operating Fund.

21 Section 711. Seasonal tax returns.

22 Notwithstanding any other provisions in this chapter or the  
23 Tax Reform Code of 1971, the department may, by regulation,  
24 waive the requirement for the filing of quarterly returns in the  
25 case of any operator whose hotel is operated only during certain  
26 seasons of the year, and may provide for the filing of returns  
27 by such persons at times other than those provided by section  
28 721.

29 SUBCHAPTER F

30 PROCEDURE AND ADMINISTRATION

1 Section 715. Persons required to make returns.

2 Every person required to pay tax to the department or collect  
3 and remit tax to the department shall file returns with respect  
4 to the tax.

5 Section 716. Form of returns.

6 The returns required by section 715 shall be on forms  
7 prescribed by the department and shall show such information  
8 with respect to the taxes imposed by this chapter as the  
9 department may reasonably require.

10 Section 717. Time for filing returns.

11 (a) Monthly reporting.--A return shall be filed monthly with  
12 respect to each month by every licensee whose total tax reported  
13 or, in the event no report is filed, the total tax which should  
14 have been reported, for the third calendar quarter of the  
15 preceding year equals or exceeds \$600. The returns shall be  
16 filed on or before the 20th day of the next succeeding month  
17 with respect to which the return is made. Any licensee required  
18 to file monthly returns under this chapter shall be relieved  
19 from filing quarterly returns.

20 (b) Annual reporting.--No annual return shall be filed,  
21 except as may be required by rules and regulations of the  
22 department promulgated and published at least 60 days prior to  
23 the end of the year with respect to which the returns are made.  
24 Where such annual returns are required, licensees shall not be  
25 required to file such returns prior to the 20th day of the year  
26 succeeding the year with respect to which the returns are made.

27 (c) Persons other than licensees.--Any person, other than a  
28 licensee, liable to pay to the department any tax under this  
29 chapter, shall file a return on or before the 20th day of the  
30 month succeeding the month in which the person becomes liable

1 for the tax.

2 (d) Waivers.--The department, by regulation, may waive the  
3 requirement for the filing of quarterly return in the case of  
4 any licensee whose individual tax collections do not exceed \$75  
5 per calendar quarter and may provide for reporting on a less  
6 frequent basis in such cases.

7 Section 718. Extension of time for filing returns.

8 The department may, on written application and for good cause  
9 shown, grant a reasonable extension of time for filing any  
10 return required under this subchapter. However, the time for  
11 making a return shall not be extended for more than three  
12 months.

13 Section 719. Place for filing returns.

14 Returns shall be filed with the department at its main office  
15 or at any branch office which it may designate for filing  
16 returns.

17 Section 720. Timely mailing treated as timely filing and  
18 payment.

19 (a) General rule.--Notwithstanding the provisions of any  
20 State tax law to the contrary, whenever a report or payment of  
21 all or any portion of a State tax is required by law to be  
22 received by the department or other agency of the Commonwealth  
23 on or before a day certain, the taxpayer shall be deemed to have  
24 complied with the law if the letter transmitting the report or  
25 payment of the tax which has been received by the department is  
26 postmarked by the United States Postal Service on or prior to  
27 the final day on which the payment is to be received.

28 (b) Presentation of receipt.--For the purposes of this  
29 chapter, presentation of a receipt indicating that the report or  
30 payment was mailed by registered or certified mail on or before

1 the due date shall be evidence of timely filing and payment.

2 Section 721. Payment of tax.

3 When a return of tax is required under this subchapter, the  
4 person required to make the return shall pay the tax to the  
5 department.

6 Section 722. Time of payment.

7 (a) General rule.--The tax imposed by this chapter and  
8 incurred or collected by a licensee shall be due and payable by  
9 the licensee on the day the return is required to be filed under  
10 the provisions of section 717 and the payment must accompany the  
11 return for the preceding period.

12 (b) Other payments.--If the amount of tax due for the  
13 preceding year as shown by the annual return of a taxpayer is  
14 greater than the amount already paid by the taxpayer in  
15 connection with the taxpayer's monthly or quarterly returns, the  
16 taxpayer shall send with the annual return a remittance for the  
17 unpaid amount of tax for the year.

18 (c) Persons other than licensees.--Any person other than a  
19 licensee liable to pay any tax under this chapter shall remit  
20 the tax at the time of filing the return required by this  
21 chapter.

22 Section 723. Other times for payment.

23 In the event that the department authorizes a taxpayer to  
24 file a return at other times than those specified in section  
25 717, the tax due shall be paid at the time the return is filed.

26 Section 724. Place for payment.

27 The tax imposed by this chapter shall be paid to the  
28 department at the place fixed for filing the return.

29 Section 725. Tax held in trust for Commonwealth.

30 (a) General rule.--All taxes collected by any person from

1 purchasers in accordance with this chapter and all taxes  
2 collected by any person from purchasers under color of this  
3 chapter which have not been properly refunded by the person to  
4 the purchaser shall constitute a trust fund for the  
5 Commonwealth, and such trust shall be enforceable against such  
6 person, the person's representatives and any person, other than  
7 a purchaser to whom a refund has been made properly, receiving  
8 any part of the fund without consideration, or knowing that the  
9 taxpayer is committing a breach of trust.

10 (b) Presumption.--Any person receiving payment of a lawful  
11 obligation of the taxpayer from the fund identified under  
12 subsection (a) shall be presumed to have received the same in  
13 good faith and without any knowledge of the breach of trust.

14 (c) Right to petition and appeal.--Any person, other than a  
15 taxpayer, against whom the department makes any claim under this  
16 section shall have the same right to petition and appeal as is  
17 given taxpayers by any provisions of this subchapter.

18 Section 726. Local receivers of use tax.

19 (a) General rule.--In every county, except counties of the  
20 first class, the county treasurer shall receive use tax due and  
21 payable under this chapter from any person other than a  
22 licensee. The receiving of the taxes shall be pursuant to rules  
23 and regulations promulgated by the department and on forms  
24 furnished by the department.

25 (b) Deduction for administrative costs.--Each county  
26 treasurer shall remit to the department all use taxes received  
27 under the authority of this section minus the costs of  
28 administering this section not to exceed 1% of the amount of use  
29 taxes received, which amount shall be retained in lieu of any  
30 commission otherwise allowable by law for the collection of the



1 tax.

2 Section 727. Discount.

3 If a return is filed by a licensee and the tax shown to be  
4 due thereon less any discount is paid all within the time  
5 prescribed, the licensee shall be entitled to credit and apply  
6 against the tax payable by the licensee a discount of 1% of the  
7 amount of the tax collected by the licensee, as compensation for  
8 the expense of collecting and remitting the same and as  
9 consideration of the prompt payment.

10 Section 728. (Reserved).

11 Section 729. (Reserved).

12 Section 730. Assessment.

13 The department shall make the inquiries, determinations and  
14 assessments of the tax, including interest, additions and  
15 penalties, imposed by this chapter. A notice of assessment and  
16 demand for payment shall be mailed by certified mail to the  
17 taxpayer. The notice shall set forth the basis of the  
18 assessment.

19 Section 731. Mode and time of assessment.

20 (a) Duty to examine.--

21 (1) Within a reasonable time after any return is filed,  
22 the department shall examine it and, if the return shows a  
23 greater tax due or collected than the amount of tax remitted  
24 with the return, the department shall issue an assessment for  
25 the difference, together with an addition of 3% of the  
26 difference, which shall be paid to the department within ten  
27 days after a notice of the assessment has been mailed to the  
28 taxpayer.

29 (2) If such assessment is not paid within ten days,  
30 there shall be added and paid to the department an additional

1 3% of the difference for each month during which the  
2 assessment remains unpaid. The total of all additions shall  
3 not exceed 18% of the difference shown on the assessment.

4 (b) Underestimated tax on returns.--

5 (1) If the department determines that any return or  
6 returns of any taxpayer understates the amount of tax due, it  
7 shall determine the proper amount and shall ascertain the  
8 difference between the amount of tax shown in the return and  
9 the amount determined. The difference may be referred to as  
10 the deficiency.

11 (2) The department shall send a notice of assessment for  
12 the deficiency and the reasons to the taxpayer.

13 (3) The taxpayer shall pay the deficiency to the  
14 department within 30 days after a notice of the assessment  
15 has been mailed to the taxpayer.

16 (c) Estimated assessments.--

17 (1) In the event that any taxpayer fails to file a  
18 return required by this chapter, the department may make an  
19 estimated assessment, based on information available, of the  
20 proper amount of tax owed by the taxpayer and shall send a  
21 notice of assessment in the estimated amount to the taxpayer.

22 (2) The taxpayer shall pay the tax within 30 days after  
23 a notice of the estimated assessment has been mailed to the  
24 taxpayer.

25 (d) Studies.--

26 (1) The department may conduct the studies necessary to  
27 compute effective rates by business classification, based  
28 upon the ratio between the tax required to be collected and  
29 taxable sales and to use such rates in arriving at the  
30 apparent tax liability of a taxpayer.

(2) Any assessment based on such rates shall be prima facie correct, except that the rate shall not be considered where a taxpayer establishes the rate is based on a sample inapplicable to the taxpayer.

Section 732. Reassessment.

Any taxpayer against whom an assessment is made may petition the department for a reassessment under Article XXVII of the Tax Reform Code of 1971.

Section 733. (Reserved).

Section 734. Review by Board of Finance and Revenue.

(a) Procedure.--

(1) Within 60 days after the date of mailing of notice by the department of the decision on any petition for reassessment filed with it, the person against whom the assessment was made may, by petition, request the Board of Finance and Revenue to review the decision.

(2) The failure of the department to notify the petitioner of a decision within the time provided by section 732 shall act as a denial of such petition, and a petition for review may be filed with the Board of Finance and Revenue within 120 days of the date prior to which the department should have mailed to the petitioner its notice of decision.

(b) Contents of petition for review.--Each petition for review filed under this section shall state specifically the reasons on which the petitioner relies, or shall incorporate by reference the petition for reassessment in which the reasons are stated. The petition shall be supported by affidavit that it is not made for the purpose of delay and that the facts set forth in the petition are true.

(c) Action by board.--

1           (1) The Board of Finance and Revenue shall act finally  
2     in disposing of petitions filed with it within six months  
3     after they have been received.

4           (2) In the event of the failure of the board to dispose  
5     of any petition within six months, the action taken by the  
6     department, upon the petition for reassessment, shall be  
7     sustained.

8           (3) The Board of Finance and Revenue may sustain the  
9     action taken by the department on the petition for  
10    reassessment, or it may reassess the tax due on such basis as  
11    it deems according to law.

12          (4) The board shall give notice of its action to the  
13    department and to the petitioner.

14 Section 735. (Reserved).

15 Section 736. Burden of proof.

16     In all cases of petitions for reassessment, review or appeal,  
17    the burden of proof shall be on the petitioner or appellant, as  
18    applicable.

19 Section 737. Collection of tax.

20     (a) General rule.--The department shall collect the tax in  
21    the manner provided by law for the collection of taxes imposed  
22    by the laws of this Commonwealth.

23     (b) Collection by persons maintaining a place of business in  
24    the Commonwealth.--

25           (1) Every person maintaining a place of business in this  
26    Commonwealth and selling or leasing tangible personal  
27    property or services, the sale or use of which is subject to  
28    tax shall collect the tax from the purchaser or lessee at the  
29    time of making the sale or lease, and shall remit the tax to  
30    the department, unless the collection and remittance is

1 otherwise provided for in this chapter.

2 (2) (i) Every person not otherwise required to collect  
3 tax that delivers tangible personal property to a  
4 location within this Commonwealth and that unpacks,  
5 positions, places or assembles the tangible personal  
6 property shall collect the tax from the purchaser at the  
7 time of delivery and shall remit the tax to the  
8 department if the person delivering the tangible personal  
9 property is responsible for collecting any portion of the  
10 purchase price of the tangible personal property  
11 delivered and the purchaser has not provided the person  
12 with proof that the tax imposed by this chapter has been  
13 or will be collected by the seller or that the purchaser  
14 provided the seller with a valid exemption certificate.

15 (ii) Every person required to collect tax under this  
16 paragraph shall be deemed to be selling or leasing  
17 tangible personal property or services, the sale or use  
18 of which is subject to the tax imposed under section 702.

19 (3) Any person required under this chapter to collect  
20 tax from another person, who shall fail to collect the proper  
21 amount of the tax, shall be liable for the full amount of the  
22 tax which the person should have collected.

23 (c) Certificate for tax-exempt sales or leases.--

24 (1) If the tax does not apply to the sale or lease of  
25 tangible personal property or services, the purchaser or  
26 lessee shall furnish to the vendor a certificate indicating  
27 that the sale is not legally subject to the tax. The  
28 certificate shall be in substantially such form as the  
29 department may, by regulation, prescribe.

30 (2) Where the tangible personal property or service is

1 of a type which is never subject to the tax imposed or where  
2 the sale or lease is in interstate commerce, the certificate  
3 need not be furnished.

4 (3) Where a series of transactions are not subject to  
5 tax, a purchaser or user may furnish the vendor with a single  
6 exemption certificate in substantially such form and valid  
7 for such period of time as the department may, by regulation,  
8 prescribe.

9 (4) The department shall provide all school districts  
10 and intermediate units with a permanent tax exemption number.

11 (5) An exemption certificate, which is complete and  
12 regular and on its face discloses a valid basis of exemption  
13 if taken in good faith, shall relieve the vendor from the  
14 liability imposed by this section.

15 (6) An exemption certificate:

16 (i) accepted by a vendor from a natural person  
17 domiciled within this Commonwealth or any association,  
18 fiduciary, partnership, corporation or other entity,  
19 either authorized to do business within this Commonwealth  
20 or having an established place of business within this  
21 Commonwealth, in the ordinary course of the vendor's  
22 business;

23 (ii) which on its face discloses a valid basis of  
24 exemption consistent with the activity of the purchaser  
25 and character of the property or service being purchased  
26 or which is provided to the vendor by a charitable,  
27 religious, educational or volunteer firefighters'  
28 organization;

29 (iii) contains the organization's charitable  
30 exemption number; and

(iv) which, in the case of any purchase costing \$200 or more, is accompanied by a sworn declaration on a form to be provided by the department of an intended usage of the property or service which would render it nontaxable, shall be presumed to be taken in good faith and the burden of proving otherwise shall be on the department.

(d) Waivers.--

(1) The department may authorize a purchaser or lessee who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or service will be used, to pay the tax directly to the department, and waive the collection of the tax by the vendor.

(2) No such authority shall be granted or exercised, except on application to the department, and the issuance by the department, in its discretion, of a direct payment permit.

(3) If a direct payment permit is granted, its use shall be subject to conditions specified by the department, and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the department by the permit holder.

Section 738. Collection of tax on motor vehicles, trailers and semitrailers.

(a) General rule.--Notwithstanding the provisions of section 737(b)(1), tax due on the sale at retail or use of a motor vehicle, trailer or semitrailer, except mobile homes as defined in 75 Pa.C.S (relating to vehicles), required by law to be registered with the department under the provisions of 75

1 Pa.C.S. shall be paid by the purchaser or user directly to the  
2 department on application to the department for an issuance of a  
3 certificate of title on the motor vehicle, trailer or  
4 semitrailer.

5 (b) No issuance of certificate of title without payment of  
6 tax.--

7 (1) The department shall not issue a certificate of  
8 title until the tax has been paid, or evidence satisfactory  
9 to the department has been given to establish that tax is not  
10 due.

11 (2) The department may cancel or suspend any record of  
12 certificate of title or registration of a motor vehicle,  
13 trailer or semitrailer when the check received in payment of  
14 the tax on the vehicle is not paid on demand.

15 (c) First encumbrance.--The tax shall be considered as a  
16 first encumbrance against the vehicle and the vehicle may not be  
17 transferred without first payment in full of the tax and any  
18 interest additions or penalties which shall accrue in accordance  
19 with this chapter.

20 Section 739. Precollection of tax.

21 (a) Authorization.--

22 (1) Except as otherwise provided under paragraph (2),  
23 the department may, by regulation, authorize or require  
24 particular categories of vendors selling tangible personal  
25 property for resale to precollect from the purchaser the tax  
26 which the purchaser will collect on making a sale at retail  
27 of the tangible personal property.

28 (2) The department, pursuant to this section, may not  
29 require a vendor to precollect tax from a purchaser who  
30 purchases for resale more than \$1,000 worth of tangible



1       personal property from the vendor per year.

2       (b) No license required.--In any case in which a vendor has  
3       been authorized to prepay the tax to the person from whom the  
4       vendor purchased the tangible personal property for resale, the  
5       vendor authorized to prepay the tax may, under the regulations  
6       of the department, be relieved from the duty to secure a license  
7       if the duty arises only by reason of the vendor's sale of the  
8       tangible personal property with respect to which the vendor is,  
9       under authorization of the department, to prepay the tax.

10      (c) Reimbursement.--

11           (1) The vendor, on making a sale at retail of tangible  
12       personal property with respect to which the vendor has  
13       prepaid the tax, must separately state at the time of resale  
14       the proper amount of tax on the transaction, and reimburse  
15       itself on account of the taxes which the vendor has  
16       previously prepaid.

17           (2) If the vendor collects a greater amount of tax in  
18       any reporting period than the vendor previously prepaid on  
19       purchase of the goods with respect to which the vendor  
20       prepaid the tax, the vendor must file a return and remit the  
21       balance to the Commonwealth at the time at which a return  
22       would otherwise be due with respect to the sales.

23   Section 740. Bulk and auction sales.

24       A person who sells or causes to be sold at auction, or who  
25       sells or transfers in bulk, 51% or more of any stock, of goods,  
26       wares or merchandise of any kind, fixtures, machinery,  
27       equipment, buildings or real estate, involved in a business for  
28       which the person is licensed or required to be licensed under  
29       this chapter, or is liable for filing use tax returns in  
30       accordance with this chapter, shall be subject to the provisions

1 of section 1403 of The Fiscal Code.

2 Section 741. Collection on failure to request reassessment,  
3 review or appeal.

4 (a) General rule.--The department may collect any tax:

5 (1) If an assessment of tax is not paid within ten days  
6 or 30 days, as the case may be, after notice of the  
7 assessment to the taxpayer and no petition for reassessment  
8 has been filed.

9 (2) Within 60 days from the date of reassessment, if no  
10 petition for review has been filed.

11 (3) Within 30 days from the date of the decision of the  
12 Board of Finance and Revenue on a petition for review, or of  
13 the expiration of the board's time for acting on the  
14 petition, if no appeal has been made.

15 (4) In all cases of judicial sales, receiverships,  
16 assignments or bankruptcies.

17 (b) Limitation on defenses.--

18 (1) Subject to the provisions of paragraph (2), in any  
19 such case in a proceeding for the collection of the taxes,  
20 the person against whom the taxes were assessed shall not be  
21 permitted to set up any ground of defense that might have  
22 been determined by the department, the Board of Finance and  
23 Revenue or the courts.

24 (2) The defense of failure of the department to mail  
25 notice of assessment or reassessment to the taxpayer and the  
26 defense of payment of assessment or reassessment may be  
27 raised in proceedings for collection by a motion to stay the  
28 proceedings.

29 Section 742. Lien for taxes.

30 (a) Nature and effect of lien.--

1           (1) If any person liable to pay any tax neglects or  
2 refuses to pay the same after demand, the amount, including  
3 any interest, addition or penalty, together with any costs  
4 that may accrue in addition, shall be a lien in favor of the  
5 Commonwealth on the property, both real and personal, of the  
6 person but only after same has been entered and docketed of  
7 record by the prothonotary of the county where the property  
8 is situated.

9           (2) The department may, at any time, transmit to the  
10 prothonotaries of the respective counties certified copies of  
11 all liens for taxes imposed by this chapter or the Tax Reform  
12 Code of 1971 and penalties and interest.

13           (3) Each prothonotary receiving the lien shall enter and  
14 docket the lien of record in the prothonotary's office, which  
15 lien shall be indexed as judgments are now indexed.

16           (4) No prothonotary shall require, as a condition  
17 precedent to the entry of the liens, the payment of the costs  
18 incident thereto.

19       (b) Priority status.--

20           (1) The lien imposed under this section shall have  
21 priority from the date of its recording, and shall be fully  
22 paid and satisfied out of the proceeds of any judicial sale  
23 of property before any other obligation, judgment, claim,  
24 lien or estate to which the property may subsequently become  
25 subject, except costs of the sale and of the writ on which  
26 the sale was made, and real estate taxes and municipal claims  
27 against such property, but shall be subordinate to mortgages  
28 and other liens existing and duly recorded or entered of  
29 record prior to the recording of the tax lien.

30           (2) In the case of a judicial sale of property, subject

1 to a lien imposed under this section, on a lien or claim over  
2 which the lien imposed under this section has priority, the  
3 sale shall discharge the lien imposed under this section to  
4 the extent only that the proceeds are applied to its payment,  
5 and the lien shall continue in full force and effect as to  
6 the balance remaining unpaid.

7 (3) There shall be no inquisition or condemnation upon  
8 any judicial sale of real estate made by the Commonwealth  
9 pursuant to the provisions of this section.

10 (4) (i) The lien of the taxes, interest and penalties,  
11 shall continue for five years from the date of entry, and  
12 may be revived and continued in the manner now or  
13 hereafter provided for renewal of judgments, or as may be  
14 provided in The Fiscal Code, and a writ of execution may  
15 directly issue upon the lien without the issuance and  
16 prosecution to judgment of a writ of scire facias.

17 (ii) Not less than ten days before issuance of any  
18 execution on the lien, notice of the filing and the  
19 effect of the lien shall be sent by registered mail to  
20 the taxpayer at the taxpayer's last known post office  
21 address.

22 (iii) The lien shall have no effect on any stock of  
23 goods, wares or merchandise regularly sold or leased in  
24 the ordinary course of business by the person against  
25 whom the lien has been entered, unless and until a writ  
26 of execution has been issued and a levy made on the stock  
27 of goods, wares and merchandise.

28 (c) Penalty.--Any willful failure of any prothonotary to  
29 carry out any duty imposed on the prothonotary under this  
30 section shall be a misdemeanor, and, upon conviction, the

1 prothonotary shall be sentenced to pay a fine not more than  
2 \$1,000 and costs of prosecution or to a term of imprisonment not  
3 exceeding one year, or both.

4 (d) Priority payment from distribution.--

5 (1) Except as otherwise provided under the law, in the  
6 distribution, voluntary or compulsory, in receivership,  
7 bankruptcy or otherwise, of the property or estate of any  
8 person, all taxes imposed by this chapter which are due and  
9 unpaid and are not collectible under section 725 shall be  
10 paid from the first money available for distribution in  
11 priority to all other claims and liens, except insofar as the  
12 laws of the United States may give a prior claim to the  
13 Federal Government.

14 (2) Any person charged with the administration or  
15 distribution of the property or estate, who violates the  
16 provisions of this section, shall be personally liable for  
17 any taxes imposed by this chapter, which are accrued and  
18 unpaid and are chargeable against the person whose property  
19 or estate is being administered or distributed.

20 (e) Construction.--Subject to the limitations contained in  
21 this chapter as to the assessment of taxes, nothing contained in  
22 this section shall be construed to restrict, prohibit or limit  
23 the use by the department in collecting taxes finally due and  
24 payable of any other remedy or procedure available at law or  
25 equity for the collection of debts.

26 Section 743. Suit for taxes.

27 (a) General rule.--At any time within three years after any  
28 tax or any amount of tax shall be finally due and payable, the  
29 department may commence an action in the courts of this  
30 Commonwealth, of any state or of the United States, in the name

1 of the Commonwealth, to collect the amount of tax due together  
2 with additions, interest, penalties and costs in the manner  
3 provided at law or in equity for the collection of ordinary  
4 debts.

5 (b) Prosecution by Attorney General.--The Attorney General  
6 shall prosecute the action and, except as provided in this  
7 chapter, the provisions of the Rules of Civil Procedure and the  
8 provisions of the laws of this Commonwealth relating to civil  
9 procedures and remedies shall, to the extent that they are  
10 applicable, be available in such proceedings.

11 (c) Construction.--The provisions of this section are in  
12 addition to any process, remedy or procedure for the collection  
13 of taxes provided by this chapter or by the laws of this  
14 Commonwealth, and this section is neither limited by nor  
15 intended to limit any such process, remedy or procedure.  
16 Section 744. Tax suit comity.

17 The courts of this Commonwealth shall recognize and enforce  
18 liabilities for sales and use taxes, lawfully imposed by any  
19 other state if the other state extends a like comity to this  
20 Commonwealth.

21 Section 745. Service.

22 (a) General rule.--Any person who maintains a place of  
23 business in this Commonwealth is deemed to have appointed the  
24 Secretary of the Commonwealth as the person's agent for the  
25 acceptance of service of process or notice in any proceedings  
26 for the enforcement of the civil provisions of this chapter, and  
27 any service made upon the Secretary of the Commonwealth as agent  
28 shall be of the same legal force and validity as if the service  
29 had been personally made on the person.

30 (b) Substitute service.--Where service cannot be made on the

1 person in the manner provided by other laws of this Commonwealth  
2 relating to service of process, service may be made on the  
3 Secretary of the Commonwealth and, in such case, a copy of the  
4 process or notice shall also be personally served on any agent  
5 or representative of the person who may be found within this  
6 Commonwealth, or where no such agent or representative may be  
7 found a copy of the process or notice shall be sent by  
8 registered mail to the person at the last known address of the  
9 person's principal place of business, home office or residence.

10 Section 746. Collection and payment of tax on credit sales.

11 If any sale subject to tax under this chapter is wholly or  
12 partly on credit, the vendor shall require the purchaser to pay  
13 in cash at the time the sale is made, or within 30 days  
14 thereafter, the total amount of tax due upon the entire purchase  
15 price. The vendor shall remit the tax to the department,  
16 regardless of whether payment was made by the purchaser to the  
17 vendor, with the next return required to be filed under section  
18 717.

19 Section 747. Prepayment of tax.

20 (a) General rule.--Whenever a vendor is prohibited by law or  
21 governmental regulation to charge and collect the purchase price  
22 in advance of or at the time of delivery, the vendor shall  
23 prepay the tax as required by section 722, but in that case, if  
24 the purchaser fails to pay to the vendor the total amount of the  
25 purchase price and the tax and the amount is written off as  
26 uncollectible by the vendor, the vendor shall not be liable for  
27 the tax and shall be entitled to a credit or refund of the tax  
28 paid.

29 (b) Subsequent collection of tax.--If the purchase price is  
30 thereafter collected, in whole or in part, the amount collected

1 shall be first applied to the payment of the entire tax portion  
2 of the bill, and shall be remitted to the department by the  
3 vendor with the first return filed after such collection.

4 (c) Time period for refund.--Tax prepaid shall be subject to  
5 refund on petition to the department under the provisions of  
6 section 752, filed within 105 days of the close of the fiscal  
7 year in which the accounts are written off.

8 Section 747.1. Refund of sales tax attributed to bad debt.

9 (a) General rule.--A vendor may file a petition for refund  
10 of sales tax paid to the department that is attributed to a bad  
11 debt if all of the following apply:

12 (1) The purchaser fails to pay the vendor the total  
13 purchase price.

14 (2) The purchase price is written off, either in whole  
15 or in part, as a bad debt on the vendor's books and records.

16 (3) The bad debt has been deducted for Federal income  
17 tax purposes under section 166 of the Internal Revenue Code  
18 of 1986 (Public Law 99-514, 26 U.S.C. § 166).

19 The petition must be filed with the department under Article  
20 XXVII of the Tax Reform Code of 1971 within the time limitations  
21 prescribed by section 3003.1 of the Tax Reform Code of 1971.

22 (b) Limitation.--

23 (1) The refund authorized by this section shall be  
24 limited to the sales tax paid to the department that is  
25 attributed to the bad debt, less any discount under section  
26 727.

27 (2) Partial payments by the purchaser to the vendor  
28 shall be prorated between the original purchase price and the  
29 sales tax due on the sale.

30 (3) Payments made to a vendor on any transaction which



1 includes both taxable and nontaxable components shall be  
2 allocated proportionally between the taxable and nontaxable  
3 components.

4 (c) Assignment.--A vendor may assign its right to petition  
5 and receive a refund of sales tax attributed to a bad debt to an  
6 affiliated entity. A vendor may not assign its right to petition  
7 and receive a refund of sales tax attributed to a bad debt to  
8 any other person.

9 (d) Items not refundable.--No refund shall be granted under  
10 this section for interest, finance charges or expenses incurred  
11 in attempting to collect any amount receivable.

12 (e) Contents of petition for refund.--The documentation,  
13 procedures and methods for claiming and calculating the refund  
14 allowed under this section shall be in such form as the  
15 department may prescribe.

16 (f) Subsequent collection.--If the purchase price that is  
17 attributed to a prior bad debt refund is collected in whole or  
18 in part, the vendor or affiliated entity shall remit the  
19 proportional tax to the department with the first return filed  
20 after the collection.

21 (g) Interest prohibited.--Notwithstanding the provisions of  
22 section 806.1 of the act of April 9, 1929 (P.L.343, No.176),  
23 known as The Fiscal Code, no interest shall be paid by the  
24 Commonwealth on refunds of sales tax attributed to bad debt  
25 under this section.

26 (h) Administration.--

27 (1) No refund or credit of sales tax shall be made for  
28 any uncollected purchase price or bad debt except as  
29 authorized by this section.

30 (2) No deduction or credit for bad debt may be taken on

any return filed with the department.

(3) This section shall provide the exclusive procedure for claiming a refund or credit of sales tax attributed to uncollected purchase price or bad debt.

(i) Definition.--For purposes of this section, the term "affiliated entity" means any corporation that is part of the same affiliated group as the vendor as defined by section 1504(a)(1) of the Internal Revenue Code of 1986.

Section 748. Registration of transient vendors.

(a) General rule.--Prior to conducting business or otherwise commencing operations in this Commonwealth, a transient vendor shall register with the department. The application for registration shall be in such form and contain such information as the department, by regulation, shall prescribe and shall set forth truthfully and accurately the information desired by the department. This registration shall be renewed and updated annually.

(b) Certificate to be issued.--After registration and the posting of the bond required by section 748.1, the department shall issue to the transient vendor a certificate valid for one year. On renewal of registration, the department shall issue a new certificate valid for one year, if the department is satisfied that the transient vendor has complied with the provisions of this chapter.

(c) Possession and exhibition of certificate.--The transient vendor shall possess the certificate at all times when conducting business within this Commonwealth and shall exhibit the certificate upon demand by authorized employees of the department or any law enforcement officer.

(d) Contents of certificate.--The certificate issued by the

1 department shall state that the transient vendor named in the  
2 certificate has registered with the department and shall provide  
3 notice to the transient vendor that:

4 (1) The transient vendor must notify the department in  
5 writing before it enters this Commonwealth to conduct  
6 business, of the location or locations where it intends to  
7 conduct business and the date or dates on which it intends to  
8 conduct business.

9 (2) Failure to notify or giving false information to the  
10 department may result in suspension or revocation of the  
11 transient vendor's certificate.

12 (3) Conducting business in this Commonwealth after a  
13 certificate has been suspended or revoked may result in  
14 criminal conviction and the imposition of fines or other  
15 penalties.

16 Section 748.1. Bond.

17 (a) General rule.--Upon registration with the department, a  
18 transient vendor shall also post a bond with the department in  
19 the amount of \$500 as surety for compliance with the provisions  
20 of this chapter. After a period of demonstrated compliance with  
21 these provisions or, if the transient vendor provides the  
22 license number of a promoter who has notified the department of  
23 a show, in accordance with the provisions of section 748.6(a),  
24 the department may reduce the amount of bond required of a  
25 transient vendor or may eliminate the bond entirely.

26 (b) Voluntary suspension of certificate.--A transient vendor  
27 may file a request for voluntary suspension of certificate with  
28 the department. If the department is satisfied that the  
29 provisions of this chapter have been complied with and has  
30 possession of the transient vendor's certificate, it shall

1 return the bond posted to the transient vendor.

2 Section 748.2. Notification to department.

3 (a) General rule.--Prior to entering this Commonwealth to  
4 conduct business, a transient vendor shall notify the department  
5 in writing of the location or locations where it intends to  
6 conduct business and the date or dates on which it intends to  
7 conduct business.

8 (b) Inspection of records.--While conducting business in  
9 this Commonwealth, the transient vendor shall permit authorized  
10 employees of the department to inspect its sales records,  
11 including, but not limited to, sales receipts and inventory or  
12 price lists and to permit inspection of the tangible personal  
13 property offered for sale at retail.

14 (c) Conditions for suspension or revocation of  
15 certificate.--The department may suspend or revoke a certificate  
16 issued to a transient vendor if the transient vendor:

17 (1) fails to notify the department as required by  
18 subsection (a);

19 (2) provides the department with false information  
20 regarding the conduct of business in this Commonwealth;

21 (3) fails to collect sales tax on all tangible personal  
22 property or services sold subject to the sales tax; or

23 (4) fails to file with the department a tax return as  
24 required by section 717.

25 (d) Regulations.--The department shall promulgate the rules  
26 and regulations necessary to implement this section.

27 Section 748.3. Seizure of property.

28 (a) General rule.--If a transient vendor conducting business  
29 in this Commonwealth fails to exhibit a valid certificate on  
30 demand by authorized employees of the department, those

1 authorized employees shall seize, without warrant, the tangible  
2 personal property and the automobile, truck or other means of  
3 transportation used to transport or carry that property. All  
4 property seized shall be deemed contraband and shall be subject  
5 to immediate forfeiture proceedings instituted by the department  
6 pursuant to procedures adopted by regulation, except as  
7 otherwise provided by this section.

8 (b) Release of seized property.--Property seized pursuant to  
9 subsection (a) shall be released on:

10 (1) presentation of a valid certificate to authorized  
11 employees of the department; or

12 (2) registration by the transient vendor with the  
13 department and the posting of a bond in the amount of \$500,  
14 either immediately or within 15 days after the property is  
15 seized.

#### 16 Section 748.4. Fines.

17 Any transient vendor conducting business in this Commonwealth  
18 while its certificate is suspended or revoked, as provided by  
19 sections 748.1(b) and 748.2(c), commits a misdemeanor of the  
20 third degree and, upon conviction, shall be sentenced to pay a  
21 fine of not more than \$2,500 for each offense.

#### 22 Section 748.5. Transient vendors subject to chapter.

23 Except as otherwise provided, a transient vendor shall be  
24 subject to the provisions of this chapter in the same manner as  
25 a vendor who maintains a place of business in this Commonwealth.

#### 26 Section 748.6. Promoters.

27 (a) General rule.--A promoter of a show or shows in this  
28 Commonwealth may annually file with the department an  
29 application for a promoter's license stating the location and  
30 dates of such show or shows. The application shall be filed at

1 least 30 days prior to the opening of the first show and shall  
2 be in such form as the department may prescribe.

3 (b) License.--

4 (1) Except as otherwise provided in this chapter, the  
5 department shall, within 15 days after receipt of an  
6 application for a license, issue to the promoter without  
7 charge a license to operate such shows.

8 (2) If application for a license under this section has  
9 been timely filed and if the license has not been received by  
10 the promoter prior to the opening of the show, the  
11 authorization contained in this section with respect to the  
12 obtaining of a promoter's license shall be deemed to have  
13 been complied with, unless or until the promoter receives  
14 notice from the department denying the application for a  
15 promoter's license.

16 (c) Compliance.--Any promoter who is a vendor under the  
17 provisions of section 701 shall comply with all the provisions  
18 of this chapter applicable to vendors and with the provisions of  
19 this section applicable to promoters.

20 (d) Prohibited conduct.--No licensed promoter shall permit  
21 any person to display for sale or to sell tangible personal  
22 property or services subject to tax under section 702 at a show  
23 unless the person is licensed under section 708 and provides to  
24 the promoter the information required under law.

25 (e) Penalties.--

26 (1) Any licensed promoter who:

27 (i) permits any person to display for sale or to  
28 sell tangible personal property or service without first  
29 having been licensed under section 708;

30 (ii) fails to maintain records of a show as required

by law; or

(iii) knowingly maintains false records or fails to comply with any provision contained in this section or any regulation promulgated by the department pertaining to shows,

shall be subject to denial of a license or the revocation of any existing license issued pursuant to this section.

(2) The department may deny the promoter a license certificate to operate a show for a period of not more than six months from the date of such denial. The penalty shall be in addition to any other penalty imposed by this chapter.

(3) Within 20 days of notice of denial or revocation of a license by the department, the promoter may petition the department for a hearing pursuant to 2 Pa.C.S. (relating to administrative law and procedure).

Section 749. (Reserved).

Section 750. (Reserved).

Section 751. (Reserved).

Section 752. Refunds.

(a) General rule.--Subject to the provisions of subsection (b), the department shall, pursuant to the provisions of Article XXVII of the Tax Reform Code of 1971, refund all taxes, interest and penalties paid to the Commonwealth under the provisions of this chapter and to which the Commonwealth is not rightfully entitled. The refunds shall be made to the person, the person's heirs, successors, assigns or other personal representatives, who actually paid the tax.

(b) Exception.--No refund shall be made under this section with respect to any payment made by reason of an assessment with respect to which a taxpayer has filed a petition for

1 reassessment pursuant to section 2702 of the Tax Reform Code of  
2 1971 to the extent that the petition has been determined  
3 adversely to the taxpayer by a decision which is no longer  
4 subject to further review or appeal.

5 (c) Construction.--Nothing contained in this section shall  
6 be deemed to prohibit a taxpayer who has filed a timely petition  
7 for reassessment from amending it to a petition for refund where  
8 the petitioner has paid the tax assessed.

9 Section 753. Refund petition.

10 (a) General rule.--Except as provided for in subsection (b)  
11 and section 756, the refund or credit of tax, interest or  
12 penalty provided for by section 752 shall be made only where the  
13 person who has actually paid the tax files a petition for refund  
14 with the department under Article XXVII of the Tax Reform Code  
15 of 1971, within the limits of section 3003.1 of the Tax Reform  
16 Code of 1971.

17 (b) Assessments.--A refund or credit of tax, interest or  
18 penalty paid as a result of an assessment made by the department  
19 under section 731 shall be made only where the person who has  
20 actually paid the tax files with the department a petition for a  
21 refund with the department under Article XXVII of the Tax Reform  
22 Code of 1971 within the time limits of section 3003.1 of the Tax  
23 Reform Code of 1971. The filing of a petition for refund under  
24 the provisions of this subsection shall not affect the abatement  
25 of interest, additions or penalties to which the person may be  
26 entitled by reason of the person's payment of the assessment.

27 Section 754. (Reserved).

28 Section 755. (Reserved).

29 Section 756. Extended time for filing special petition for  
30 refund.



1 (a) General rule.--Any party to a transaction who has paid  
2 tax by reason of a transaction with respect to which the  
3 department is assessing tax against another person may, within  
4 six months after the filing by the department of the assessment  
5 against the other person, file a special petition for refund,  
6 notwithstanding the person's failure to timely file a petition  
7 pursuant to section 3003.1 of the Tax Reform Code of 1971. The  
8 provisions of Article XXVII of the Tax Reform Code of 1971 shall  
9 be applicable to the special petition for refund, except that  
10 the department need not act on the petition until there is a  
11 final determination as to the propriety of the assessment filed  
12 against the other party to the transaction. Where a petition is  
13 filed under this provision in order to take advantage of the  
14 extended period of limitations, overpayments by the petitioner  
15 shall be refunded but only to the extent of the actual tax,  
16 without consideration of interest and penalties, paid by the  
17 other party to the transaction.

18 (b) Purpose.--The purpose of this section is to avoid  
19 duplicate payment of tax where a determination is made by the  
20 department that one party to a transaction is subject to tax,  
21 and another party to the transaction has previously paid tax  
22 with respect to the transaction and, as such, this section shall  
23 be construed as extending right beyond that provided for by  
24 section 753, and not to limit the other section.

25 Section 757. (Reserved).

26 Section 758. Limitation on assessment and collection.

27 The amount of the tax imposed by this chapter or the Tax  
28 Reform Code of 1971 shall be assessed within three years after  
29 the date when the return provided for by section 717(a) or (c)  
30 is filed or the end of the year in which the tax liability

1 arises, whichever occurs later. Any assessment may be made at  
2 any time during the period notwithstanding that the department  
3 may have made one or more previous assessments against the  
4 taxpayer for the year in question, or for any part of the year.  
5 In any case, no credit shall be given for any penalty previously  
6 assessed or paid.

7 Section 759. Failure to file return.

8 Where no return is filed, the amount of the tax due may be  
9 assessed and collected at any time as to taxable transactions  
10 not reported.

11 Section 760. False or fraudulent return.

12 Where the taxpayer willfully files a false or fraudulent  
13 return with intent to evade the tax imposed by this chapter, the  
14 amount of tax due may be assessed and collected at any time.

15 Section 761. Extension of limitation period.

16 Notwithstanding any other provisions of this subchapter  
17 where, before the expiration of the period prescribed in that  
18 other provision for the assessment of a tax, a taxpayer has  
19 consented in writing that the period be extended, the amount of  
20 tax due may be assessed at any time within the extended period.  
21 The period so extended may be extended further by subsequent  
22 consents in writing made before the expiration of the extended  
23 period.

24 Section 762. (Reserved).

25 Section 763. (Reserved).

26 Section 764. (Reserved).

27 Section 765. Interest.

28 If any amount of tax imposed by this chapter is not paid to  
29 the department on or before the last date prescribed for  
30 payment, interest on the amount at the rate of .75% per month

1 for each month, or fraction thereof, from the date, shall be  
2 paid for the period from the last date to the date paid. The  
3 last date prescribed for payment shall be determined under  
4 section 722(a) or (c) without regard to any extension of time  
5 for payment. In the case of any amount assessed as a deficiency  
6 or as an estimated assessment, the date prescribed for payment  
7 shall be 30 days after notice of the assessment.

8 Section 766. Additions to tax.

9 (a) Failure to file return.--In the case of failure to file  
10 any return required by section 715 on the date prescribed for  
11 the return, determined with regard to any extension of time for  
12 filing, and, in the case in which a return filed understates the  
13 true amount due by more than 50%, there shall be added to the  
14 amount of tax actually due 5% of the amount of the tax if the  
15 failure to file a proper return is for not more than one month,  
16 with an additional 5% for each additional month, or fraction  
17 thereof, during which such failure continues, not exceeding 25%  
18 in the aggregate. In every case at least \$2 shall be added.

19 (b) Addition for understatement.--There shall be added to  
20 every assessment under section 731(b) an addition equal to 5% of  
21 the amount of the understatement and no addition to the tax  
22 shall be paid under section 731(a).

23 (c) Interest.--If the department assesses a tax according to  
24 section 731(a), (b) or (c), there shall be added to the amount  
25 of the deficiency interest at the rate of .75% per month for  
26 each month, or fraction thereof, from the date prescribed by  
27 subsection (a) or section 722(c) for the payment of the tax to  
28 the date of notice of the assessment.

29 Section 767. Penalties.

30 (a) General rule.--The penalties, additions, interest and

1 liabilities provided by this chapter shall be paid on notice and  
2 demand by the department, and shall be assessed and collected in  
3 the same manner as taxes. Except as otherwise provided, any  
4 reference in this chapter to tax imposed by this chapter shall  
5 be deemed also to refer to the penalties, additions, interest  
6 and liabilities provided by this chapter.

7 (b) Monetary penalty.--Any person who willfully attempts, in  
8 any manner, to evade or defeat the tax imposed by this chapter,  
9 or the payment thereof, or to assist any other person to evade  
10 or defeat the tax imposed by this chapter, or the payment  
11 thereof, or to receive a refund improperly shall, in addition to  
12 other penalties provided by law, be liable for a penalty equal  
13 to one-half of the total amount of the tax evaded.

14 (c) Burden of proof.--In any direct proceeding arising out  
15 of a petition for reassessment or refund as provided in this  
16 chapter, in which an issue of fact is raised with respect to  
17 whether a return is fraudulent or with respect to the propriety  
18 of the imposition by the department of the penalty prescribed in  
19 subsection (b), the burden of proof with respect to the issue  
20 shall be on the department.

21 Section 768. Criminal offenses.

22 (a) False returns.--Any person who with intent to defraud  
23 the Commonwealth willfully makes, or causes to be made, any  
24 return required by this chapter which is false commits a  
25 misdemeanor and, upon conviction, shall be sentenced to pay a  
26 fine of not more than \$2,000 or to imprisonment not exceeding  
27 three years, or both.

28 (b) Other offenses.--Except as otherwise provided by  
29 subsection (a) and subject to the provisions of subsection (c),  
30 any person who:

1           (1) advertises or holds out or states to the public or  
2 to any purchaser or user, directly or indirectly, that the  
3 tax or any part imposed by this chapter will be absorbed by  
4 the person, or that it will not be added to the purchase  
5 price of the tangible personal property or services described  
6 in section 701(k)(2), (3), (4) and (11) through (18) sold or,  
7 if added, that the tax or any part will be refunded, other  
8 than when the person refunds the purchase price because of  
9 the property being returned to the vendor;

10          (2) sells or leases tangible personal property or the  
11 services, the sale or use of which by the purchaser is  
12 subject to tax under this chapter, and willfully fails to  
13 collect the tax from the purchaser and timely remit the same  
14 to the department;

15          (3) willfully fails or neglects to timely file any  
16 return or report required by this chapter or, as a taxpayer,  
17 refuses to timely pay any tax, penalty or interest imposed or  
18 provided for by this chapter, or willfully fails to preserve  
19 the person's books, papers and records as directed by the  
20 department;

21          (4) refuses to permit the department or any of its  
22 authorized agents to examine the person's books, records or  
23 papers, or who knowingly makes any incomplete, false or  
24 fraudulent return or report;

25          (5) does or attempts to do anything to prevent the full  
26 disclosure of the amount or character of taxable sales  
27 purchases or use made by himself or any other person;

28          (6) provides any person with a false statement as to the  
29 payment of tax with respect to particular tangible personal  
30 property or services; or

1 (7) makes, utters or issues a false or fraudulent  
2 exemption certificate;  
3 commits a misdemeanor and, upon conviction shall be sentenced to  
4 pay a fine of not more than \$1,000 and costs of prosecution or  
5 to imprisonment for not more than one year, or both.

6 (c) Exceptions.--

7 (1) Any person who maintains a place of business outside  
8 this Commonwealth may absorb the tax with respect to taxable  
9 sales made in the normal course of business to customers  
10 present at that place of business without being subject to  
11 the penalty and fines.

12 (2) Advertising tax-included prices shall be  
13 permissible, if the prepaid services are sold by the service  
14 provider, for prepaid telecommunications services not  
15 evidenced by the transfer of tangible personal property or  
16 for prepaid mobile telecommunications services.

17 (d) Penalties are cumulative.--The penalties imposed by this  
18 section shall be in addition to any other penalties imposed by  
19 any provision of this chapter.

20 Section 769. Abatement of additions or penalties.

21 On the filing of a petition for reassessment or a petition  
22 for refund as provided under this chapter by a taxpayer,  
23 additions or penalties imposed on the taxpayer by this chapter  
24 or the Tax Reform Code of 1971 may be waived or abated, in whole  
25 or in part, where the petitioner has established that the  
26 petitioner has acted in good faith, without negligence and with  
27 no intent to defraud.

28 Section 770. Rules and regulations.

29 (a) General rule.--The department shall enforce the  
30 provisions of this chapter and shall prescribe, adopt,

1 promulgate and enforce rules and regulations not inconsistent  
2 with the provisions of this chapter, relating to any matter or  
3 thing pertaining to the administration and enforcement of the  
4 provisions of this chapter, and the collection of taxes,  
5 penalties and interest imposed by this chapter. The department  
6 may prescribe the extent, if any, to which any of the rules and  
7 regulations shall be applied without retroactive effect.

8 (b) Determination of purchase price.--

9 (1) In determining the purchase price of taxable sales  
10 where, because of affiliation of interests between the vendor  
11 and the purchaser or irrespective of any such affiliation, if  
12 for any other reason, the purchase price of the sale is in  
13 the opinion of the department not indicative of the true  
14 value of the article or the fair price of the article, the  
15 department shall, pursuant to uniform and equitable rules,  
16 determine the amount of constructive purchase price on the  
17 basis of which the tax shall be computed and levied.

18 (2) The rules shall provide for a constructive amount of  
19 a purchase price for each sale, which price shall equal a  
20 price for the article which would naturally and fairly be  
21 charged in an arm's-length transaction in which the element  
22 of common interests between vendor and purchaser or, if no  
23 common interest exists, any other element causing a  
24 distortion of the price or value is absent.

25 (3) For the purpose of this chapter where a taxable sale  
26 occurs between a parent corporation and a subsidiary  
27 affiliate or controlled corporation of such parent, there  
28 shall be a rebuttable presumption that because of such common  
29 interest the transaction was not at arm's-length.

30 Section 771. Keeping of records.

1       (a) Persons liable for taxes.--Every person liable for any  
2 tax imposed by this chapter, or for the collection of the tax,  
3 shall keep the records, render such statements, make the returns  
4 and comply with the rules and regulations as the department may,  
5 from time to time, prescribe regarding matters pertinent to the  
6 person's business. Whenever in the judgment of the department it  
7 is necessary, it may require any person, by notice served on the  
8 person, or by regulations, to make the returns, render the  
9 statements or keep the records as the department deems  
10 sufficient to show whether the person is liable to pay or  
11 collect tax under this chapter.

12       (b) Persons collecting taxes.--Any person liable to collect  
13 tax from another person under the provisions of this chapter  
14 shall file reports, keep records, make payments and be subject  
15 to interest and penalties as provided for under this chapter, in  
16 the same manner as if the person were directly subject to the  
17 tax.

18       (c) Nonresidents.--

19           (1) A nonresident who does business in this Commonwealth  
20 as a retail dealer shall keep adequate records of the  
21 business and of the tax due with respect to the business,  
22 which records shall at all times be retained within this  
23 Commonwealth unless retention outside this Commonwealth is  
24 authorized by the department.

25           (2) No taxes collected from purchasers shall be sent  
26 outside this Commonwealth without the written consent of and  
27 in accordance with conditions prescribed by the department.

28           (3) The department may require a taxpayer who desires to  
29 retain records or tax collections outside this Commonwealth  
30 to assume reasonable out-of-State audit expenses.



1 (d) Retail dealers.--

2 (1) Any person doing business as a retail dealer who at  
3 the same time is engaged in another business which does not  
4 involve the making of sales taxable under this chapter shall  
5 keep separate books and records of the person's businesses so  
6 as to show the sales taxable under this chapter separately  
7 from the sales not taxable under this chapter.

8 (2) If the person fails to keep such separate books and  
9 records, the person shall be liable for tax at the rate  
10 designated in section 702 on the entire purchase price of  
11 sales from both or all of the person's businesses.

12 (e) Segregation of taxes required.--

13 (1) In those instances where a vendor gives no sales  
14 memoranda or uses registers showing only total sales, the  
15 vendor shall adopt some method of segregating tax from sales  
16 receipts and keep records showing the segregation, all in  
17 accordance with proper accounting and business practices.

18 (2) A vendor may apply to the department for permission  
19 to use a collection and recording procedure which will show  
20 the information as the law requires with reasonable accuracy  
21 and simplicity. The application must contain a detailed  
22 description of the procedure to be adopted.

23 (3) Permission to use the proposed procedure is not to  
24 be construed as relieving the vendor from remitting the full  
25 amount of tax collected.

26 (4) The department may revoke the permission on 30 days'  
27 notice to the vendor.

28 (5) Refusal of the department to grant permission in  
29 advance to use the procedure shall not be construed to  
30 invalidate a procedure which on examination shows the

1 information as the law requires.

2 Section 771.1. Reports and records of promoters.

3 Every licensed promoter shall keep a record of the date and  
4 place of each show and the name, address, sales, use and hotel  
5 occupancy license number of every person whom the licensed  
6 promoter permits to display for sale or to sell tangible  
7 personal property or services subject to tax under section 702  
8 at the show. The records shall be open for inspection and  
9 examination at any reasonable time by the department or a duly  
10 authorized representative, and the records shall, unless the  
11 department consents in writing to an earlier destruction, be  
12 preserved for three years after the date the report was filed or  
13 the date it was due, whichever occurs later, except that the  
14 department may by regulation require that they be kept for a  
15 longer period of time.

16 Section 772. Examinations.

17 (a) Power of department.--The department or any of its  
18 authorized agents may examine the books, papers and records of  
19 any taxpayer in order to verify the accuracy and completeness of  
20 any return made or if no return was made, to ascertain and  
21 assess the tax imposed by this chapter. The department may  
22 require the preservation of all such books, papers and records  
23 for any period deemed proper by it but not to exceed three years  
24 from the end of the calendar year to which the records relate.

25 (b) Duty of taxpayers.--Every taxpayer shall give to the  
26 department, or its agent, the means, facilities and opportunity  
27 for the examinations and investigation.

28 (c) Other powers of department.--

29 (1) The department is further authorized to examine any  
30 person, under oath, concerning taxable sales or use by any

1 taxpayer or concerning any other matter relating to the  
2 enforcement or administration of this chapter, and to this  
3 end may compel the production of books, papers and records  
4 and the attendance of all persons whether as parties or  
5 witnesses whom it believes to have knowledge of such matters.

6 (2) The procedure for such hearings or examinations  
7 shall be the same as that provided by the act of April 9,  
8 1929 (P.L.343, No.176), known as The Fiscal Code, relating to  
9 inquisitorial powers of fiscal officers.

10 Section 773. Records and examinations of delivery agents.

11 Every agent for the purpose of delivery of goods shipped into  
12 this Commonwealth by a nonresident, including, but not limited  
13 to, a common carrier, shall maintain adequate records of such  
14 deliveries pursuant to rules and regulations adopted by the  
15 department and shall make the records available to the  
16 department upon request after due notice.

17 Section 774. Unauthorized disclosure.

18 Any information gained by the department as a result of any  
19 return, examination, investigation, hearing or verification  
20 required or authorized by this chapter shall be confidential,  
21 except for official purposes and except in accordance with  
22 proper judicial order or as otherwise provided by law, and any  
23 person unlawfully divulging such information commits a  
24 misdemeanor and, upon conviction, shall be sentenced to pay a  
25 fine of not more than \$1,000 and costs of prosecution or to  
26 imprisonment for not more than one year, or both.

27 Section 775. Cooperation with other governments.

28 Notwithstanding the provisions of section 774, the department  
29 may permit the Commissioner of Internal Revenue of the United  
30 States, or the proper officer of any state, or the authorized

1 representative of either such officer, to inspect the tax  
2 returns of any taxpayer, or may furnish to the officer or to the  
3 officer's authorized representative an abstract of the return of  
4 any taxpayer, or supply the officer or the authorized  
5 representative with information concerning any item contained in  
6 any return or disclosed by the report of any examination or  
7 investigation of the return of any taxpayer. This permission  
8 shall be granted only if the statutes of the United States or of  
9 such other state, as the case may be, grant substantially  
10 similar privileges to the proper officer of the Commonwealth  
11 charged with the administration of this chapter.

12 Section 776. Interstate compacts.

13 (a) General rule.--The Governor, or the Governor's  
14 authorized representative, may confer with the Governor and the  
15 authorized representatives of other states with respect to  
16 reciprocal use tax collection between the Commonwealth and such  
17 other states.

18 (b) Other powers.--The Governor, or the Governor's  
19 authorized representative, may join with the authorities of  
20 other states to conduct joint investigations, to exchange  
21 information, hold joint hearings and enter into compacts or  
22 interstate agreements with such other states to accomplish  
23 uniform reciprocal use tax collections between those states who  
24 are parties to any compact or interstate agreement and the  
25 Commonwealth.

26 Section 777. Bonds.

27 (a) Procedure.--

28 (1) Whenever the department, in its discretion, deems it  
29 necessary to protect the revenues to be obtained under the  
30 provisions of this chapter, it may require any nonresident

1 natural person or any foreign corporation, association,  
2 fiduciary, partnership or other entity, not authorized to do  
3 in this Commonwealth or not having an established place of  
4 business in this Commonwealth and subject to the tax imposed  
5 by section 702, to file a bond issued by a surety company  
6 authorized to do business in this Commonwealth and approved  
7 by the Insurance Commissioner as to solvency and  
8 responsibility, in such amounts as it may fix, to secure the  
9 payment of any tax or penalties due, or which may become due,  
10 from a natural person or corporation.

11 (2) In order to protect the revenues to be obtained  
12 under the provisions of this chapter, the department shall  
13 require any nonresident natural person or any foreign  
14 corporation, association, fiduciary, partnership or entity,  
15 who or which is a building contractor, or who or which is a  
16 supplier delivering building materials for work in this  
17 Commonwealth and is not authorized to do business in this  
18 Commonwealth or does not have an established place of  
19 business in this Commonwealth and is subject to the tax  
20 imposed by section 702, to file a bond issued by a surety  
21 company authorized to do business in this Commonwealth and  
22 approved by the Insurance Commissioner as to solvency and  
23 responsibility, in the amounts as it may fix, to secure the  
24 payments of any tax or penalties due, or which may become  
25 due, from a natural person, corporation or other entity.

26 (3) The department may also require a bond of any person  
27 petitioning the department for reassessment, in the case of  
28 any assessment over \$500 or where it is of the opinion that  
29 the ultimate collection is in jeopardy.

30 (4) (i) The department may, for a period of three

1 years, require a bond of any person who has on three or  
2 more occasions within a 12-month period either filed a  
3 return or made payment to the department more than 30  
4 days late.

5 (ii) If the department determines that a taxpayer is  
6 to file a bond, the department shall give notice to the  
7 taxpayer to that effect, specifying the amount of the  
8 bond required.

9 (iii) The taxpayer shall file a bond within five  
10 days after the giving of the notice by the department  
11 unless, within the five-day period, the taxpayer requests  
12 in writing a hearing before the secretary or the  
13 secretary's representative at which hearing the  
14 necessity, propriety and amount of the bond shall be  
15 determined by the secretary or a representative. The  
16 determination shall be final and shall be complied within  
17 15 days after notice is mailed to the taxpayer.

18 (b) Alternative security.--

19 (1) In lieu of the bond required by this section,  
20 securities approved by the department, or cash in the amount  
21 as it may prescribe, may be deposited.

22 (2) Such securities or cash shall be kept in the custody  
23 of the department, who may, at any time, without notice to  
24 the depositor, apply them to any tax and/or interest or  
25 penalties due, and for that purpose the securities may be  
26 sold by the department, at public or private sale, on five  
27 days' written notice to the depositor.

28 (c) Lien may be filed.--

29 (1) The department may file a lien pursuant to section  
30 742 against any taxpayer who fails to file a bond when

1 required to do so under this section.

2 (2) All funds received on execution of the judgment on  
3 the lien shall be refunded to the taxpayer with 3% interest  
4 should a final determination be made that the taxpayer does  
5 not owe any payment to the department.

#### 6 SUBCHAPTER G

#### 7 FUNDING PROVISIONS

8 Section 780. (Reserved).

9 Section 781. Appropriation for refunds.

10 So much of the proceeds of the tax imposed by this chapter as  
11 shall be necessary for the payment of refunds, enforcement or  
12 administration under this chapter is hereby appropriated for  
13 those purposes.

14 Section 781.1. Construction.

15 To the extent that the language of this chapter is identical  
16 to that of equivalent provisions in the former act of March 6,  
17 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for  
18 Education, or Article II of the Tax Reform Code of 1971, that  
19 language shall be deemed a reenactment of such identical  
20 provisions.

21 Section 781.2. Transfers to Public Transportation Reserve Fund.

22 (a) Establishment of fund.--Beginning January 1, 2008, 1.01%  
23 up to a maximum of \$75,000,000 of the taxes received under this  
24 chapter, and such additional revenues not to exceed 4.4% of such  
25 additional revenues that are generated by taxes received under  
26 this chapter that are necessary to replace the revenues  
27 earmarked for public transportation under 74 Pa.C.S. § 1506(c)  
28 (relating to fund), shall be deposited in the Public  
29 Transportation Reserve Fund which is hereby established in the  
30 State Treasury and shall be disbursed as provided under an act

1 of the General Assembly enacted after the effective date of this  
2 section.

3 (b) Time period for transfers.--Within 30 days of the close  
4 of a calendar month, 1.01% of the taxes and other sums specified  
5 in subsection (a) received in the prior calendar month shall be  
6 transferred to the Public Transportation Reserve Fund.

7 Section 782. Transfers to Education Operating Fund.

8 (a) Legislative intent.--It is the intent of the General  
9 Assembly to broaden the sales and use tax base in order to  
10 provide funds for the operating expenses of school districts and  
11 as a means to abolish the school property tax.

12 (b) Source of funding for transfers.--Except as otherwise  
13 provided under section 781.2, all revenues received on or after  
14 January 1, 2008, from the tax imposed by this chapter shall be  
15 transferred to the Education Operating Fund.

16 CHAPTER 9

17 SENIOR CITIZENS PROPERTY TAX AND

18 RENT REBATE ASSISTANCE

19 Section 901. Scope of chapter.

20 This chapter provides senior citizens with assistance in the  
21 form of property tax and rent rebates.

22 Section 902. (Reserved).

23 Section 903. Definitions.

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

27 "Board." The Board of Finance and Revenue of the  
28 Commonwealth.

29 "Claimant." A person who files a claim for property tax  
30 rebate or rent rebate in lieu of property taxes and:



1           (1) was at least 65 years of age or whose spouse, if a  
2 member of the household, was at least 65 years of age during  
3 a calendar year in which real property taxes, rent and  
4 inflation costs were due and payable;

5           (2) was a widow or widower and was at least 50 years of  
6 age during a calendar year or part thereof in which real  
7 property taxes, rent and inflation costs were due and  
8 payable; or

9           (3) was a permanently disabled person 18 years of age or  
10 older during a calendar year or part thereof in which the  
11 real property taxes, rent and inflation costs were due and  
12 payable.

13 "Homestead." A dwelling, whether owned or rented, and so  
14 much of the land surrounding it, as is reasonably necessary for  
15 the use of the dwelling as a home, occupied by a claimant. The  
16 term includes, but is not limited to:

17           (1) Premises occupied by reason of ownership or lease in  
18 a cooperative housing corporation.

19           (2) A mobile home which is assessed as realty for local  
20 property tax purposes and the land, if owned or rented by the  
21 claimant, upon which the mobile home is situated, and any  
22 other similar living accommodation.

23           (3) A part of a multidwelling or multipurpose building  
24 and a part of the land upon which it is built.

25           (4) Premises occupied by reason of the claimant's  
26 ownership or rental of a dwelling located on land owned by a  
27 nonprofit incorporated association, of which the claimant is  
28 a member, if the claimant is required to pay a pro rata share  
29 of the property taxes levied against the association's land.

30           (5) Premises occupied by a claimant if the claimant is

1 required by law to pay a property tax by reason of the  
2 claimant's ownership or rental, including a possessory  
3 interest, in the dwelling, the land or both. An owner  
4 includes a person in possession under a contract of sale,  
5 deed of trust, life estate, joint tenancy or tenancy in  
6 common or by reason of statutes of descent and distribution.

7 "Household income." All income received by a claimant and  
8 the claimant's spouse while residing in their homestead during  
9 the calendar year for which a rebate is claimed.

10 "Income." All income from whatever source derived,  
11 including, but not limited to:

12 (1) Salaries, wages, bonuses, commissions, income from  
13 self-employment, alimony, support money, cash public  
14 assistance and relief.

15 (2) The gross amount of any pensions or annuities,  
16 including railroad retirement benefits for calendar years  
17 prior to 1999 and 50% of railroad retirement benefits for  
18 calendar years 1999 and thereafter.

19 (3) All benefits received under the Social Security Act  
20 (49 Stat. 620, 42 U.S.C. § 301 et seq.), except Medicare  
21 benefits, for calendar years prior to 1999, and 50% of all  
22 benefits received under the Social Security Act, except  
23 Medicare benefits, for calendar years 1999 and thereafter.

24 (4) All benefits received under State unemployment  
25 insurance laws and veterans' disability payments.

26 (5) All interest received from the Federal or any state  
27 government or any instrumentality or political subdivision  
28 thereof.

29 (6) Realized capital gains and rentals.

30 (7) Workers' compensation.

1           (8) The gross amount of loss of time insurance benefits,  
2       life insurance benefits and proceeds, except the first \$5,000  
3       of the total of death benefit payments.

4           (9) Gifts of cash or property, other than transfers by  
5       gift between members of a household, in excess of a total  
6       value of \$300.

7 The term does not include surplus food or other relief in kind  
8 supplied by a governmental agency, property tax or rent rebate  
9 or inflation dividend.

10       "Inflation expenses." The additional costs of those  
11 essential consumer needs of senior citizens in this  
12 Commonwealth. The term includes, but is not limited to, the  
13 additional cost of medical prescriptions, energy needs,  
14 transportation and food and clothing essentials.

15       "Permanently disabled person." A person who is unable to  
16 engage in any substantial gainful activity by reason of any  
17 medically determinable physical or mental impairment which can  
18 be expected to continue indefinitely, except as provided in  
19 section 904(b)(3) and (c).

20       "Real property taxes." All taxes on a homestead, exclusive  
21 of municipal assessments, delinquent charges and interest, due  
22 and payable during a calendar year.

23       "Rent rebate in lieu of property taxes." Twenty percent of  
24 the gross amount actually paid in cash or its equivalent in any  
25 calendar year to a landlord in connection with the occupancy of  
26 a homestead by a claimant, irrespective of whether such amount  
27 constitutes payment solely for the right of occupancy or  
28 otherwise.

29       "Widow" or "widower." The surviving wife or the surviving  
30 husband, as the case may be, of a deceased individual and who

1 has not remarried except as provided in section 904(b)(3) and  
2 (c).

3 Section 904. Property tax, rent rebate and inflation cost.

4 (a) Schedule of rebates.--

5 (1) The amount of any claim for property tax rebate or  
6 rent rebate in lieu of property taxes for real property taxes  
7 or rent due and payable during calendar years 1985 and  
8 thereafter shall be determined in accordance with the  
9 following schedule:

10	Percentage of Real Property Taxes	
11	or Rent Rebate in Lieu of	
12	Household Income	Property Taxes Allowed as Rebate
13	\$ 0 - \$4,999	100%
14	5,000 - 5,499	100
15	5,500 - 5,999	90
16	6,000 - 6,499	80
17	6,500 - 6,999	70
18	7,000 - 7,499	60
19	7,500 - 7,999	50
20	8,000 - 8,499	40
21	8,500 - 8,999	35
22	9,000 - 9,999	25
23	10,000 - 11,999	20
24	12,000 - 12,999	15
25	13,000 - 15,000	10

26 (2) To all claimants eligible for a property tax or rent  
27 rebate pursuant to paragraph (1), there shall be paid an  
28 inflation dividend determined in accordance with the  
29 following schedule:

30	Household Income	Dividend
----	------------------	----------

1	\$ 0 - \$4,999	\$125
2	5,000 - 5,499	100
3	5,500 - 5,999	100
4	6,000 - 6,499	75
5	6,500 - 6,999	75
6	7,000 - 7,499	60
7	7,500 - 7,999	60
8	8,000 - 8,499	45
9	8,500 - 8,999	45
10	9,000 - 9,999	30
11	10,000 - 11,999	30
12	12,000 - 12,999	30
13	13,000 - 15,000	20

14 (b) Limitations on claims.--

15 (1) No claim shall be allowed if the amount of property  
16 tax or rent rebate computed in accordance with this section  
17 is less than \$10, and the maximum amount of property tax or  
18 rent rebate payable shall not exceed \$500.

19 (2) No claim shall be allowed if the claimant is a  
20 tenant of an owner of real property exempt from real property  
21 taxes.

22 (c) Apportionment and public assistance.--

23 (1) If any of the following exist relating to a claim:

24 (i) a homestead is owned or rented and occupied for  
25 only a portion of a year or is owned or rented in part by  
26 a person who does not meet the qualifications for a  
27 claimant, exclusive of any interest owned or leased by a  
28 claimant's spouse;

29 (ii) the claimant is a widow or widower who  
30 remarries; or

1 (iii) the claimant is a formerly disabled person who  
2 is no longer disabled,  
3 the department shall apportion the real property taxes or  
4 rent in accordance with the period or degree of ownership or  
5 leasehold or eligibility of the claimant in determining the  
6 amount of rebate for which a claimant is eligible.

7 (2) A claimant who receives public assistance from the  
8 Department of Public Welfare shall not be eligible for rent  
9 rebate in lieu of property taxes or an inflation dividend  
10 during those months within which the claimant receives public  
11 assistance.

12 (d) Government subsidies.--Rent shall not include subsidies  
13 provided by or through a governmental agency.

14 Section 905. Filing of claim.

15 (a) General rule.--Except as otherwise provided in  
16 subsection (b), a claim for property tax or rent rebate shall be  
17 filed with the department on or before the 30th day of June of  
18 the year next succeeding the end of the calendar year in which  
19 real property taxes or rent was due and payable.

20 (b) Exception.--A claim filed after the June 30 deadline  
21 until December 31 of such calendar year shall be accepted by the  
22 secretary as long as funds are available to pay the benefits to  
23 the late filing claimant.

24 (c) Payments from State Lottery Fund.--No reimbursement on a  
25 claim shall be made from the State Lottery Fund earlier than the  
26 day following the 30th day of June provided in this chapter on  
27 which that claim may be filed with the department.

28 (d) Eligibility of claimants.--

29 (1) Only one claimant from a homestead each year shall  
30 be entitled to the property tax or rent rebate.

1           (2) If two or more persons are able to meet the  
2       qualifications for a claimant, they may determine who the  
3       claimant shall be.

4           (3) If they are unable to agree, the department shall  
5       determine to whom the rebate is to be paid.

6       Section 906. Proof of claim.

7       (a) Contents.--Each claim shall include:

8           (1) Reasonable proof of household income.

9           (2) The size and nature of the property claimed as a  
10       homestead.

11          (3) The rent, tax receipt or other proof that the real  
12       property taxes on the homestead have been paid or rent in  
13       connection with the occupancy of a homestead has been paid.

14          (4) If the claimant is a widow or widower, a declaration  
15       of such status in such manner as prescribed by the secretary.

16       (b) Proof of disability.--

17          (1) Proof that a claimant is eligible to receive  
18       disability benefits under the Social Security Act (49 Stat.  
19       620, 42 U.S.C. § 301 et seq.) shall constitute proof of  
20       disability under this chapter.

21          (2) No person who has been found not to be disabled by  
22       the Social Security Administration shall be granted a rebate  
23       under this chapter.

24          (3) A claimant not covered under the Social Security Act  
25       shall be examined by a physician designated by the department  
26       and such status determined using the same standards used by  
27       the Social Security Administration.

28       (c) Direct payment of taxes or rent not required.--It shall  
29       not be necessary that such taxes or rent were paid directly by  
30       the claimant if the rent or taxes have been paid when the claim

1 is filed.

2 (d) Proof of age on first claim.--The first claim filed  
3 shall include proof that the claimant or the claimant's spouse  
4 was at least 65 years of age, or at least 50 years of age in the  
5 case of a widow or widower during the calendar year in which  
6 real property taxes or rent were due and payable.

7 Section 907. Incorrect claim.

8 Whenever on audit of a claim the department finds the claim  
9 to have been incorrectly determined, it shall redetermine the  
10 correct amount of the claim and notify the claimant of the  
11 reason for the redetermination and the amount of the corrected  
12 claim.

13 Section 908. Funds for payment of claims.

14 (a) Payment.--Approved claims shall be paid from the State  
15 Lottery Fund established by the act of August 26, 1971 (P.L.351,  
16 No.91), known as the State Lottery Law.

17 (b) Minimum funding level.--Not less than the percentage of  
18 the State Lottery Fund expended in the fiscal year beginning  
19 July 1, 2007, for the provision of property tax relief and rent  
20 rebate in lieu of property taxes shall be transferred from the  
21 State Lottery Fund each year into a restricted account within  
22 the State Lottery Fund, which account is hereby established and  
23 shall be known as the Property Tax and Rent Rebate Restricted  
24 Account. The moneys of the account shall be expended for the  
25 sole purpose of providing property tax relief and rent rebates  
26 in lieu of property taxes as provided by law.

27 (c) Restrictions on use of Gaming Fund.--No moneys in the  
28 Gaming Fund shall be transferred to the State Lottery Fund or  
29 otherwise used for the purposes of this chapter.

30 Section 909. Claim forms and rules and regulations.



1        Necessary rules and regulations shall be prescribed by a  
2        committee consisting of the Secretary of Aging, the Secretary of  
3        Revenue and the Secretary of Community and Economic Development.  
4        The Secretary of Aging shall serve as the chairman of the  
5        committee. The department shall receive all applications,  
6        determine the eligibility of claimants, hear appeals, disburse  
7        payments and make available suitable forms for the filing of  
8        claims.

9        Section 910.    Fraudulent claims and conveyances to obtain  
10                        benefits.

11        (a)    Civil penalty.--In any case in which a claim is  
12        excessive and was filed with fraudulent intent, the claim shall  
13        be disallowed in full, and a penalty of 25% of the amount  
14        claimed shall be imposed. The penalty and the amount of the  
15        disallowed claim, if the claim has been paid, shall bear  
16        interest at the rate of 1.5% per month from the date of the  
17        claim until repaid.

18        (b)    Criminal penalty.--The claimant and any person who  
19        assisted in the preparation or filing of a fraudulent claim  
20        commits a misdemeanor of the third degree and, upon conviction  
21        thereof, shall be sentenced to pay a fine not exceeding \$1,000  
22        or to imprisonment not exceeding one year, or both.

23        (c)    Disallowance for receipt of title.--A claim shall be  
24        disallowed if the claimant received title to the homestead  
25        primarily for the purpose of receiving property tax rebate.

26        Section 911.    Petition for redetermination.

27        (a)    Right to file.--A claimant whose claim is either denied,  
28        corrected or otherwise adversely affected by the department may  
29        file with the department a petition for redetermination on forms  
30        supplied by the department within 90 days after the date of

1 mailing of written notice by the department of such action.

2 (b) Contents.--The petition shall set forth the grounds upon  
3 which the claimant alleges that such departmental action is  
4 erroneous or unlawful, in whole or part, and shall contain an  
5 affidavit or affirmation that the facts contained in the  
6 petition are true and correct.

7 (c) Extension of time for filing.--

8 (1) An extension of time for filing the petition may be  
9 allowed for cause but may not exceed 120 days.

10 (2) The department shall hold such hearings as may be  
11 necessary for the purpose of redetermination, and each  
12 claimant who has duly filed such petition for redetermination  
13 shall be notified by the department of the time when and the  
14 place where such hearing in the claimant's case will be held.

15 (d) Time period for decision.--The department shall, within  
16 six months after receiving a filed petition for redetermination,  
17 dispose of the matters raised by such petition and shall mail  
18 notice of the department's decision to the claimant.

19 Section 912. Review by Board of Finance and Revenue.

20 (a) Right to review.--Within 90 days after the date of  
21 official receipt by the claimant of notice mailed by the  
22 department of its decision on a petition for redetermination  
23 filed with it, the claimant who is adversely affected by the  
24 decision may by petition request the board to review such  
25 action.

26 (b) Effect of no decision from department.--The failure of  
27 the department to officially notify the claimant of a decision  
28 within the six-month period provided for by section 911 shall  
29 act as a denial of the petition, and a petition for review may  
30 be filed with the board within 120 days after written notice is

1 officially received by the claimant that the department has  
2 failed to dispose of the petition within the six-month period.

3 (c) Contents of petition for redetermination.--A petition  
4 for redetermination filed under this section shall state the  
5 reasons upon which the claimant relies or shall incorporate by  
6 reference the petition for redetermination in which such reasons  
7 were stated. The petition shall be supported by affidavit that  
8 the facts set forth therein are correct and true.

9 (d) Time period for decision.--The board shall act in  
10 disposition of petitions filed with it within six months after  
11 they have been received, and, in the event of failure of the  
12 board to dispose of any petition within six months, the action  
13 taken by the department upon the petition for redetermination  
14 shall be deemed sustained.

15 (e) Relief authorized by board.--The board may sustain the  
16 action taken by the department on the petition for  
17 redetermination or it may take such other action as it shall  
18 deem necessary and consistent with provisions of this chapter.

19 (f) Form of notice.--Notice of the action of the board shall  
20 be given by mail to the department and to the claimant.

21 Section 913. Appeal.

22 A claimant aggrieved by a decision of the board may appeal  
23 from the decision of the board in the manner provided by law for  
24 appeals from decisions of the board in tax cases.

## 25 CHAPTER 11

### 26 LIMITATIONS ON SCHOOL DISTRICT TAXATION

27 Section 1101. Authority to levy taxes and effect of future  
28 Constitutional amendment.

29 (a) Abrogating authority to impose certain taxes.--

30 (1) The authority of any school district to levy, assess

1 and collect any real property tax under the Public School  
2 Code of 1949, or any other act shall expire in accordance  
3 with the schedule set forth under section 1152(c), at  
4 midnight December 31, 2007.

5 (2) Except as otherwise provided in section 401, the  
6 authority of a school district to impose or continue any tax  
7 adopted pursuant to the Local Tax Enabling Act or a school  
8 per capita tax pursuant to the Public School Code of 1949 or  
9 to impose or continue any other tax not authorized under this  
10 act shall expire at midnight on December 31, 2008.

11 (3) The authority of a city of the first class to impose  
12 or continue to provide for the imposition or continuation of  
13 any tax, including, but not limited to, the real property  
14 tax, for the use of a school district of the first class that  
15 is not specifically authorized under this act shall expire in  
16 accordance with the schedule set forth under section 1102(b).

17 (4) The authority of any school district to impose or to  
18 continue a tax on the transfer of real property pursuant to  
19 the Tax Reform Code of 1971, the Local Tax Enabling Act or  
20 any other law shall expire at midnight on December 31, 2008.

21 (5) No political subdivision that may impose a tax on  
22 the transfer of real property shall have the authority to  
23 increase the rate of its realty transfer tax pursuant to  
24 Article XI-D of the Tax Reform Code of 1971, the Local Tax  
25 Enabling Act or any other law above the rate in effect for  
26 that political subdivision as of June 30, 2007, or the rate  
27 of .5%, whichever rate is greater.

28 (b) Collection of certain taxes unaffected.--The provisions  
29 of this section or any other provision of this act shall not  
30 prevent or interfere with any action of any school district to

1 collect any tax owed by any taxpayer prior to the repeal of any  
2 law authorizing such tax after such law is repealed pursuant to  
3 this act.

4 (c) Limitations on adoption of personal income taxes  
5 authorized under Chapter 3 and earned income taxes authorized  
6 under Chapter 5.--A school district that adopts a personal  
7 income tax pursuant to Chapter 3 may not adopt an earned income  
8 tax under Chapter 5. A school district that adopts an earned  
9 income tax under Chapter 5 may not adopt a personal income tax  
10 under Chapter 3.

11 Section 1102. Transitional taxes.

12 (a) Transitional taxes for school districts other than  
13 school districts of the first class.--Notwithstanding any other  
14 provision of the Public School Code of 1949 or any other law to  
15 the contrary:

16 (1) Any school district, other than a school district of  
17 the first class, may continue to levy, assess and collect a  
18 real property tax for the fiscal years 2008-2009, 2009-2010  
19 and 2010-2011, subject to the limitations set forth in  
20 paragraphs (2), (3), (4) and (5), and may continue to levy,  
21 assess and collect taxes, other than realty transfer taxes,  
22 pursuant to the Local Tax Enabling Act and the school per  
23 capita tax until midnight on December 31, 2008.

24 (2) For fiscal year 2008-2009, the rate of real property  
25 tax shall be calculated to generate 75% of the revenue  
26 generated by the real property tax for the 2006-2007 fiscal  
27 year.

28 (3) For fiscal year 2009-2010, the rate of the real  
29 property tax shall be calculated to generate 50% of the  
30 revenue generated by the real property tax for the 2006-2007

1       fiscal year.

2           (4) For fiscal year 2010-2011, the rate of the real  
3       property tax shall be calculated to generate 25% of the  
4       revenue generated by the real property tax for the 2006-2007  
5       fiscal year.

6           (5) For all fiscal years beginning after June 30, 2011,  
7       no school district shall have any power or authority to levy,  
8       assess and collect any real property tax.

9       (b) Transitional taxes for school districts of the first  
10      class.--Notwithstanding any other provision of the Public School  
11      Code of 1949 or any other law to the contrary:

12           (1) Subject to the provisions set forth in paragraphs  
13      (2), (3) and (4), any school district of the first class and  
14      city of the first class may continue to levy, assess and  
15      collect a real property tax and all other taxes in existence  
16      on July 31, 2007, at the rates in effect on that date as  
17      reduced in accordance with this subsection, for the use of a  
18      coterminous school district of the first class for fiscal  
19      years 2008-2009, 2009-2010 and 2010-2011. The authority to  
20      levy, assess and collect such taxes for the use of  
21      coterminous school districts shall expire at midnight on  
22      December 31, 2011.

23           (2) For fiscal year 2008-2009, all taxes identified  
24      under paragraph (1) shall be calculated to generate 75% of  
25      the revenue generated by all such taxes for the 2006-2007  
26      fiscal year.

27           (3) For fiscal year 2009-2010, all taxes identified  
28      under paragraph (1) shall be calculated to generate 50% of  
29      the revenue generated by those taxes for the 2006-2007 fiscal  
30      year.

1           (4) For fiscal year 2010-2011, all taxes identified  
2           under paragraph (1) shall be calculated to generate 25% of  
3           the revenue generated by those taxes for the 2006-2007 fiscal  
4           year.

5           (5) For all fiscal years beginning after June 30, 2011,  
6           no city of the first class shall have any power or authority  
7           to levy, assess and collect any of the taxes identified under  
8           paragraph (1) for school purposes.

9   Section 1103. Consideration of State appropriations or  
10                            reimbursements.

11          The personal income or earned income tax levied shall not be  
12          invalidated by reason of the fact that in determining the amount  
13          to be raised by such tax no deduction was made for  
14          appropriations or reimbursements paid or payable by the  
15          Commonwealth to the school district.

16   Section 1104. Taxes for cities and school districts of the  
17                            first class.

18          Notwithstanding any other provision of the Public School Code  
19          of 1949 or any other law to the contrary:

20           (1) Nothing in this act shall be construed to limit or  
21           impair a city of the first class from levying, assessing or  
22           collecting any tax for municipal purposes or from increasing  
23           the millage for real estate taxes or revenues if the revenues  
24           derived from the real property tax are used solely for  
25           municipal purposes.

26           (2) The reduction in real property tax millage in cities  
27           of the first class shall be made in four equal installments  
28           beginning with the 2008-2009 fiscal year and shall reduce the  
29           millage by not less than 60% from the millage in effect on  
30           July 30, 2007.

1 CHAPTER 12

2 INDEBTEDNESS

3 Section 1201. Expiration of authority to issue debt.

4 Notwithstanding any other provision of 53 Pa.C.S. Pt. VII,  
5 Subpt. B (relating to indebtedness and borrowing) or any other  
6 law to the contrary, no school district, including a school  
7 district of the first class, shall incur any electoral debt,  
8 lease rental debt or nonelectoral debt under 53 Pa.C.S. Pt. VII,  
9 Subpt. B after the effective date of this section.

10 Section 1202. Notices and reporting by school districts of debt  
11 outstanding.

12 (a) Duties.--

13 (1) (i) On or before March 31, 2008, each school  
14 district, including a school district of the first class,  
15 shall identify the outstanding amount of all electoral  
16 debt, lease rental debt or nonelectoral debt incurred as  
17 of June 30, 2008, and shall notify on or before March 31,  
18 2008, each holder of the bonds or notes of such debt of  
19 the amount owed to each holder as of December 31, 2007.  
20 The notice shall inform the holders of the provisions of  
21 this section and section 1203.

22 (ii) A holder of a bond or note of such debt shall  
23 have the right to dispute the amount stated as owed to  
24 the holder in the notice, provided that the holder  
25 notifies the local government unit in writing prior to  
26 April 15, 2008. A holder that fails to file a dispute  
27 under this subparagraph shall waive the right to dispute  
28 the amount owed to the holder after the Commonwealth  
29 assumes the debt of the school district under section  
30 1203.



(iii) A school district that receives a written dispute from a holder under subparagraph (ii) shall attempt to resolve the dispute by May 1, 2008.

(2) On or before June 30, 2008, each school district, including a school district of the first class, shall certify and report to the Department of Revenue the outstanding amount of all electoral debt, lease rental debt or nonelectoral debt incurred as of December 31, 2007, together with any information requested by the department in order for the Commonwealth to comply with the requirements of this section and section 1203.

(b) Audit by Department of Revenue.--

(1) The Department of Revenue shall audit each report submitted under subsection (a) and shall certify the amount of each report and the total aggregate amount of all reports to the State Treasurer and the Education Operating Fund Board on or before June 30, 2008.

(2) If the Department of Revenue disputes all or any portion of a report submitted under subsection (a), the department shall not include such amount in the certification to the State Treasurer and the Education Operating Fund Board and shall notify the school district in writing of the exclusion from the certification.

Section 1203. Assumption of school district debt by  
Commonwealth.

(a) General rule.--Except as otherwise provided in subsection (b), the Commonwealth shall assume on June 30, 2008, the outstanding amount of all electoral debt, lease debt or nonelectoral debt certified in the report submitted by the Department of Revenue to the State Treasurer and the Education

1 Operating Fund Board. Such debt shall be managed and  
2 administered by the School Financing Authority established under  
3 section 1309, and repaid from the Education Operating Fund as  
4 provided by law.

5 (b) Exceptions.--The Commonwealth may not assume:

6 (1) Any of the outstanding debt of a school district  
7 that fails to certify and file a report with the Department  
8 of Revenue as required by section 1202.

9 (2) That portion of the outstanding debt included in a  
10 report filed by a school district, but which the Department  
11 of Revenue does not include in its certification to the State  
12 Treasurer and the Education Operating Fund Board under  
13 section 1202(b)(2).

14 Section 1204. Power to apply for debt and limitations.

15 The board of school directors in any school district may, in  
16 any year after December 31, 2009, apply for an indebtedness in  
17 the form of bonds and notes to secure the same, payable as  
18 provided by 53 Pa.C.S. Pt. VII, Subpt. B (relating to  
19 indebtedness and borrowing) or any amendment or re-enactment  
20 thereof, for any or all of the following purposes:

21 (1) To purchase or acquire proper sites, buildings or  
22 grounds for school use, or any lands additional to any  
23 existing school sites or grounds.

24 (2) To erect, enlarge, equip or furnish any building for  
25 school use.

26 (3) To repair, remodel or rebuild any building of the  
27 school district.

28 (4) To lease for an extended period building facilities  
29 or portions of buildings constructed for school use and/or  
30 existing building facilities or portions of existing building

1 facilities altered for school use.

2 (5) To refund certain bonds, as provided in this  
3 chapter.

4 (6) To fund temporary indebtedness incurred for  
5 permanent improvements, or in anticipation of proceeds from a  
6 bond issue.

7 Section 1205. Referendum requirement.

8 (a) General rule.--No debt shall be incurred pursuant to  
9 section 1204 unless the requirements of subsection (b) are  
10 satisfied.

11 (b) Adoption of referendum.--

12 (1) In order to incur debt specified in subsection (a),  
13 the governing body shall use the procedures set forth in this  
14 subsection.

15 (2) (i) Subject to the notice and public hearing  
16 requirements of this subsection, a governing body may  
17 incur debt specified in subsection (a) only by obtaining  
18 the approval of the electorate of the affected school  
19 district in a public referendum at only the municipal  
20 election preceding the fiscal year when the debt will be  
21 initially incurred.

22 (ii) The question shall be in clear language that is  
23 readily understandable by a layperson. For the purpose of  
24 illustration, a referendum question may be framed as  
25 follows:

26 Do you favor the creation of debt in the amount of X  
27 for school district purposes?

28 (iii) A nonlegal interpretative statement must  
29 accompany the question in accordance with section 201.1  
30 of the act of June 3, 1937 (P.L.1333, No.320), known as

1 the Pennsylvania Election Code.

2 (3) In the event a school district is located in more  
3 than one county, petitions under this section shall be filed  
4 with the election officials of the county in which the  
5 administrative offices of the school district are located.

6 (4) The election officials who receive a petition shall  
7 perform all administrative functions in reviewing and  
8 certifying the validity of the petition and conduct all  
9 necessary communications with the school district.

10 (5) (i) If the election officials of the county who  
11 receive the petition certify that it is sufficient under  
12 this section and determine that a question should be  
13 placed on the ballot, the decision shall be communicated  
14 to election officials in any other county in which the  
15 school district is also located.

16 (ii) Election officials in the other county or  
17 counties shall cooperate with election officials of the  
18 county receiving the petition to ensure that an identical  
19 question is placed on the ballot at the same election  
20 throughout the entire school district.

21 (6) Election officials from each county involved shall  
22 independently certify the results from their county to the  
23 governing body.

24 (7) (i) In order to incur debt under this section, the  
25 governing body shall adopt a resolution which refers to  
26 this chapter prior to placing a question on the ballot.

27 (ii) Prior to adopting a resolution incurring debt  
28 authorized by this section, the governing body shall give  
29 public notice of its intent to adopt the resolution and  
30 shall conduct at least one public hearing regarding the

1           proposed adoption of the resolution.

2   Section 1206.   Temporary debt.

3       (a)   Authorization.--Any school district having no  
4   indebtedness or whose indebtedness, incurred or created without  
5   the assent of the electors thereof, is less than an amount equal  
6   to the standard disbursement for that school district made  
7   pursuant to section 1304 for the immediately preceding fiscal  
8   year may, at any time, for the purpose of providing funds in any  
9   fiscal year for current expenses and debt service, for permanent  
10   improvements, the acquiring of school buses, or in anticipation  
11   of proceeds from a bond issue already officially authorized and,  
12   except in school districts of the first class, approved by the  
13   Department of Community and Economic Development, with such  
14   limitations and for such length of term as provided in this  
15   chapter, by or through its board of school directors, incur, in  
16   addition to any bonds therein authorized, a temporary debt or  
17   borrow money, and issue an obligation or obligations therefor,  
18   under the seal of the district, if any, properly executed by the  
19   president and attested by the secretary thereof, and bearing  
20   interest not exceeding the legal rate, but no such obligation  
21   shall be sold for less than par. The incurring of any such  
22   temporary debt, or borrowing money upon such obligation, shall  
23   receive the affirmative vote of not less than two-thirds of the  
24   members of the board of school directors.

25       (b)   Permanent improvements.--In addition, any school  
26   district may, as provided in this section, incur a temporary  
27   debt or borrow money for permanent improvements, where no bond  
28   issue has been previously officially authorized, and refund such  
29   temporary indebtedness by the issue of bonds, in the manner  
30   provided by law, when the exact amount required for such

1 permanent improvement becomes known.

2 Section 1207. Limit on temporary debt for current expenses and  
3 debt service.

4 The total amount of temporary indebtedness incurred for  
5 current expenses and debt service shall at no time exceed an  
6 amount equal to the standard disbursement for that school  
7 district made pursuant to section 1304 for the immediately  
8 preceding fiscal year. All loans shall be paid out of the  
9 receipts available, or pledged for repayment when the funds are  
10 received. The total amount of the temporary indebtedness for  
11 such purpose remaining unpaid at the close of the fiscal year  
12 shall become an obligation on the following year's budget and  
13 shall be included in the following year's budget.

14 Section 1208. Emergency loans for current expenses and debt  
15 service.

16 (a) General rule.--In case of an emergency, any school  
17 district in any fiscal year, after borrowing money in  
18 anticipation of current revenues to the full extent permitted by  
19 law and finding the receipts from the loans, together with all  
20 other receipts, to be inadequate to meet the expenditures of the  
21 official fiscal year's budget, may appeal to the Education  
22 Operating Fund Board for permission to incur a temporary debt  
23 for the purpose of providing funds for current expenses and debt  
24 service and shall present to the Education Operating Fund Board  
25 the financial statements or reports as the Education Operating  
26 Fund Board may require to give adequate facts relative to the  
27 necessity of the increase in indebtedness. The Education  
28 Operating Fund Board may, after due examination of the need of  
29 the school district, grant or refuse permission to the school  
30 district to borrow additional funds for current expenses and

1 debt service beyond the amount permitted by law. In case of  
2 approval, the Education Operating Fund Board shall designate the  
3 maximum length of the term and shall set a maximum limit of the  
4 total amount of the temporary indebtedness that the school  
5 district may incur during the fiscal year in addition to all  
6 temporary indebtedness for other purposes outstanding at the  
7 time of the approval.

8 (b) Limitations.--All temporary indebtedness, for the  
9 purpose of current expenses and debt service by a school  
10 district shall not exceed the standard disbursement for that  
11 school district made pursuant to section 1304 for the  
12 immediately preceding fiscal year.

13 Section 1209. Limit on temporary debt for permanent  
14 improvements and tax levy.

15 The total amount of temporary indebtedness incurred in any  
16 school district for the purpose of permanent improvements and  
17 the acquiring of school buses, except obligations incurred under  
18 law, shall never exceed an amount equal to the standard  
19 disbursement for that school district made pursuant to section  
20 1304 for the immediately preceding fiscal year. Except where  
21 such temporary indebtedness is to be refunded by the issue of  
22 bonds, as authorized, at or before the time of incurring  
23 indebtedness for such purpose, provision shall be made for the  
24 collection of an annual tax sufficient to pay the interest and  
25 also the principal thereof within the term of such indebtedness,  
26 as provided by law.

27 Section 1210. Limit on temporary debt in anticipation of  
28 proceeds of bond issue.

29 (a) General rule.--The total amount of temporary  
30 indebtedness incurred in anticipation of proceeds from a bond

1 issue shall not exceed 75% of the full amount of bonds  
2 authorized by the bond issue.

3 (b) Payment.--All obligations, other than bonds, issued by  
4 any school district in anticipation of proceeds from a bond  
5 issue shall be paid in full, together with interest, out of the  
6 proceeds of the bond issue within one year and six months from  
7 the date of authorization of the bond issue.

8 Section 1211. Borrowing in anticipation of current revenue.

9 School districts may borrow money in anticipation of current  
10 revenues to an amount not exceeding the anticipated current  
11 revenues, which amount shall be pledged for the payment of the  
12 loan or loans, and issue notes or other form of obligation,  
13 executed by the president of the board of school directors and  
14 attested by the secretary of the board under the seal of the  
15 school district securing the loans. The notes, or other form of  
16 obligation, shall mature and be payable during the current  
17 fiscal year in which the money is borrowed. No borrowing shall  
18 constitute an increase of indebtedness within the meaning of  
19 section 8 of Article IX of the Constitution of Pennsylvania, or  
20 any of the provisions of any other law. The notes shall bear  
21 interest at a rate not exceeding 6% per annum, payable at  
22 maturity or in advance, and may be sold at either public or  
23 private sale for not less than par. If the loans are not repaid  
24 in whole or in part during the fiscal year in which they are  
25 made, they, or such amounts as remain unpaid, shall become an  
26 obligation upon the following year's budget and shall be  
27 included and paid not later than the first day of July of such  
28 following year, in school districts of the first class, and not  
29 later than the first day of November of the following year, in  
30 school districts of the second, third, and fourth class. The



1 incurring of the obligations shall receive the affirmative vote  
2 of not less than two-thirds of the members of the board of  
3 school directors.

## 4 CHAPTER 13

### 5 FUNDING PROVISIONS

6 Section 1301. Definitions.

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

10 "Authority." The School Financing Authority established  
11 under section 1309.

12 "Average per pupil expenditure." An amount equal to a school  
13 district's current expenditures for a school year to include  
14 General Fund expenditures in the functional classifications of  
15 instruction, support services and operation of noninstructional  
16 services, as designated in the Manual of Accounting and Related  
17 Financial Procedures for Pennsylvania School Systems, divided by  
18 the average daily membership of the school district for the same  
19 school year.

20 "Average per pupil expenditure for each public school student  
21 in the Commonwealth." An amount equal to the current  
22 expenditures for all school districts for a school year to  
23 include General Fund expenditures in the functional  
24 classifications of instruction, support services and operation  
25 of noninstructional services, as designated in the Manual of  
26 Accounting and Related Financial Procedures for Pennsylvania  
27 School Systems, divided by the total number of public school  
28 students constituting average daily membership for all school  
29 districts in this Commonwealth for the same school year.

30 "Board." The Education Operating Fund Board established

1 under section 1308.

2 "Consumer Price Index" or "CPR." The lesser of:

3 (1) the average annual percentage increase in the  
4 Consumer Price Index for All Urban Consumers (CPI-U) for the  
5 Pennsylvania, New Jersey and Maryland area for the preceding  
6 calendar year, as reported by the United States Department of  
7 Labor, Bureau of Labor Statistics; or

8 (2) the percentage increase in sales and use tax  
9 collected under section 702 from the previous calendar year.

10 "Distressed district prevention and emergency disbursements."  
11 Disbursements authorized from the Education Trust Reserve  
12 Account under section 1305(b).

13 "Education Operating Fund" or "EOF." The Education Operating  
14 Fund established under section 1302.

15 "Education Trust Reserve Account" or "ETR account." The  
16 Education Trust Reserve Account established under section 1305.

17 "Equity disbursements." Disbursements authorized from the  
18 School Equity Account under section 1306(c).

19 "Nonqualified operating expenses." The total dollar amount  
20 of the following from the preceding fiscal year:

21 (1) any one-time, nonrecurring expense;

22 (2) disbursements from operating-type reserve  
23 accumulations which were a source of funding from Federal,  
24 State or local sources;

25 (3) school district-specific programs initiated and paid  
26 for from school district sources of nontax funds;

27 (4) school district costs, including, but not limited  
28 to, health care benefit costs that are assumed by the  
29 Commonwealth, including the Education Operating Fund, after  
30 the effective date of this section;

1           (5) direct school property tax administration and  
2 collection costs; and

3           (6) debt service payments that the school district would  
4 have made for the applicable fiscal year if the Commonwealth  
5 had not assumed the school district's debt obligation  
6 pursuant to Chapter 12.

7 "Qualifying line items." The following line items or  
8 substantially identical line items in any general appropriations  
9 act that authorize payments or reimbursements to a school  
10 district:

11           (1) Payment of basic education funding to school  
12 districts.

13           (2) Payments on account of special education of  
14 exceptional children.

15           (3) Payments on account of pupil transportation.

16           (4) Payments on account of annual rental or sinking fund  
17 charges on school buildings, including charter schools.

18           (5) Payments for early intervention services.

19           (6) Reimbursements to school districts for their charter  
20 school payments.

21           (7) Special education-approved private schools.

22           (8) Payments on account of nonpublic and charter school  
23 pupil transportation.

24           (9) Payment for tuition to school districts providing  
25 education to nonresident orphaned children placed in private  
26 homes by the court and nonresident inmates of children's  
27 institutions.

28           (10) Grants to school districts to assist in meeting  
29 Federal matching requirements for grants received under the  
30 Child Nutrition Act of 1966 (Public Law 89-642, 42 U.S.C. §

1 1771 et seq.) and to aid in providing a food program for  
2 needy children.

3 (11) Programs of education and training at youth  
4 development centers and the monitoring of programs of  
5 education and training provided to incarcerated juveniles.

6 (12) Payment on account of homebound instruction.

7 (13) Payments of annual fixed charges to school  
8 districts in lieu of taxes for land acquired by the  
9 Commonwealth for water conservation or flood prevention.

10 (14) Education of indigent children at charitable  
11 hospitals.

12 "School District Equity Account." The School District Equity  
13 Account established under section 1306(a).

14 "School Equity Capital Construction Fund" or "SECCF." The  
15 School Equity Capital Construction Fund established under  
16 section 1311.

17 "Standard disbursements." Disbursements made on a quarterly  
18 basis from the Education Operating Fund as authorized under  
19 section 1304.

20 "Student enrollment adjustment." A dollar amount determined  
21 from the preceding fiscal year based on the net increase or  
22 decrease in the total average daily membership of students  
23 enrolled in that school district between the opening and the  
24 closing of the school term that occurs within that preceding  
25 fiscal year converted to a dollar amount as determined by the  
26 Education Operating Fund Board. The transfer of a public school  
27 student to a cyber school, charter school, facility for  
28 receiving special education or other alternative school shall  
29 not be deemed to decrease the number of students enrolled in a  
30 school district for purposes of reducing the standard

1 distribution to a school district for any fiscal year in which  
2 the school district pays at least \$2,000 toward the education of  
3 any such student.

4 Section 1302. Education Operating Fund.

5 (a) Establishment.--The Education Operating Fund is  
6 established in the State Treasury.

7 (b) Contents.--

8 (1) The fund shall consist of:

9 (i) All moneys collected by the department under  
10 section 321, Chapter 7 and section 1307.

11 (ii) Any other moneys required by this act or other  
12 law to be deposited into the fund.

13 (2) (i) On or before July 1, 2008, each school district  
14 shall transfer a sum of money equal to its ending  
15 unreserved, undesignated fund balance as of July 1, 2007  
16 to the Education Operating Fund.

17 (ii) As used in this paragraph, "ending unreserved,  
18 undesignated fund balance" means that portion of the  
19 school district's general fund balance which is  
20 appropriable for expenditure or not legally or otherwise  
21 segregated for a specific or tentative future use, at the  
22 close of the fiscal year for which a school district's  
23 budget was adopted and held in the general fund accounts  
24 of the school district.

25 (c) Separate fund.--The fund and all accounts of the fund  
26 shall be separate from all other funds of the Commonwealth and  
27 shall not be subject to borrowing by or transfer to the General  
28 Fund or any other fund in the State Treasury.

29 (d) Continuing appropriation.--All money placed in the fund  
30 and in the ETR Account and the School District Equity Account

1 and the interest they accrue are hereby appropriated to the  
2 board on a continuing basis and may be expended by the board  
3 only for the purposes authorized under this act.

4 Section 1303. Cash flow funding forecasts.

5 (a) Scope and purpose.--

6 (1) This section imposes a duty on school districts to  
7 provide the board with certain cash flow funding forecasts.

8 (2) The purpose of the cash flow funding forecasts is to  
9 assist the board to make distressed district prevention and  
10 emergency disbursements to school districts under section  
11 1306 and to improve the ability of school districts to  
12 monitor and plan their expenditures in a more fiscally  
13 effective manner.

14 (b) Annual submission of funding forecasts.--On or before  
15 July 1, 2009, and continuing annually thereafter, each school  
16 district shall submit to the board a preliminary annual cash  
17 flow funding forecast relating to school district operations  
18 that need to be funded from the fund for the following fiscal  
19 year for the calendar quarters ending September 30, December 31,  
20 March 31 and June 30.

21 (c) Contents.--The cash flow funding forecast shall be  
22 referenced to the fiscal year then ending and may only include  
23 operating expenditure categories included in the school  
24 district's budget for that fiscal year. The budget contained in  
25 the forecast:

26 (1) May not exceed actual operating expenditures for the  
27 2007-2008 fiscal year plus estimated debt service on all debt  
28 as of December 31, 2006, and, in succeeding years, may not  
29 exceed actual operating expenditures for the prior fiscal  
30 year as modified by the student enrollment adjustment. Any

1 tax revenue collections for the period July 1, 2007, through  
2 June 30, 2010, shall be itemized and deducted in the  
3 forecasting funding requirements. Fund increases shall be  
4 factored into these forecasts.

5 (2) May not include expenditures based on the one-time  
6 use of reserves set up in prior years.

7 (3) Shall report all estimated requirements net of any  
8 available school district operating reserves and all other  
9 receipts and sources of tax revenue collections of any kind  
10 through the fiscal year beginning July 1, 2011, and each  
11 fiscal year thereafter, except as authorized by local  
12 referendum after July 1, 2011.

13 (4) Shall apply all noncapital expenditure reserves  
14 against the forecasted net funding requirements.

15 (5) Shall treat debt service for capital expenditures as  
16 separate line items and exclude debt service approved by  
17 referendum.

18 (d) Quarterly updates.--On or before July 1, 2008, and  
19 continuing quarterly thereafter on the last day of each quarter,  
20 each school district shall submit to the board a cash flow  
21 funding forecast quarterly update relating to school district  
22 operations that need to be funded from the fund for the current  
23 year.

24 Section 1304. Standard disbursements to school districts from  
25 Education Operating Fund.

26 (a) Standard draw requests by school districts.--For the  
27 fiscal year beginning July 1, 2008, and continuing each fiscal  
28 year thereafter, each school district shall submit on a  
29 quarterly basis to the board a draw request for a standard  
30 disbursement, which draw request shall be filed no later than 30

1 days prior to the beginning of the next quarter. The board shall  
2 prescribe the form and content of the draw request for a  
3 standard disbursement.

4 (b) Standard disbursement formula.--After receipt and review  
5 of the quarterly draw requests submitted by school districts  
6 under subsection (a), the board shall make standard  
7 disbursements from the fund to each school district, other than  
8 a school district of the first class, on or before the last day  
9 of each quarter as follows:

10 (1) For the fiscal year beginning July 1, 2008, the  
11 amount of each quarterly standard disbursement for each  
12 school district, as adjusted by subtracting nonqualified  
13 operating expenses, in accordance with paragraph (6), shall  
14 be equal to 25% of the following:

15 (i) a dollar amount which shall be equal to all  
16 payments and reimbursements received by the school  
17 district for the 2007-2008 fiscal year from qualifying  
18 line items in a general appropriations act that  
19 authorizes payments and reimbursements to the school  
20 district for that fiscal year as adjusted by the  
21 percentage increase in the CPI for calendar year 2007 and  
22 by the student enrollment adjustment;

23 (ii) the dollar amount equal to the 25% reduction in  
24 real property tax revenues resulting from the application  
25 of section 1102(a)(2) for that fiscal year;

26 (iii) fifty percent of the dollar amount collected  
27 from school per capita tax during calendar year 2008; and

28 (iv) fifty percent of the dollar amount collected  
29 from the Local Tax Enabling Act during calendar year  
30 2008.



1           (2) For the fiscal year beginning July 1, 2009, the  
2 amount of each quarterly standard disbursement to the school  
3 district, as adjusted by subtracting nonqualified operating  
4 expenses, in accordance with paragraph (6), shall be equal to  
5 25% of the following:

6           (i) a dollar amount equal to the sum calculated  
7 pursuant to paragraph (1)(i) as adjusted by the  
8 percentage increase in the CPI for calendar year 2008 in  
9 accordance with paragraph (6);

10          (ii) the dollar amount equal to the 50% reduction in  
11 real property tax revenues resulting from the application  
12 of section 1102(a)(3) for that fiscal year as adjusted by  
13 the percentage increase in the CPI for calendar year 2008  
14 and by the student enrollment adjustment;

15          (iii) the dollar amount collected from the school  
16 per capita tax and the Local Tax Enabling Act during  
17 calendar year 2008; and

18          (iv) a dollar amount equal to the equity  
19 disbursement received by the school district for the  
20 2008-2009 fiscal year pursuant to section 1306(c)(2).

21           (3) For the fiscal year beginning July 1, 2010, the  
22 amount of each quarterly standard disbursement to a school  
23 district as adjusted by subtracting nonqualified operating  
24 expenses, in accordance with paragraph (6), shall be equal to  
25 25% of the following:

26           (i) a dollar amount equal to the sum calculated  
27 pursuant to paragraph (2)(i) and (iv) as adjusted by the  
28 percentage increase in the CPI for calendar year 2009 and  
29 by the student enrollment adjustment;

30           (ii) the dollar amount equal to the 75% reduction in

1 real property tax revenues resulting from the application  
2 of section 1102(a)(4) as adjusted by the percentage  
3 increase in the CPI for 2009 and by the student  
4 enrollment adjustment;

5 (iii) the dollar amount calculated pursuant to  
6 paragraph (2)(iii) as adjusted by the percentage increase  
7 in the CPI for 2009; and

8 (iv) a dollar amount equal to the equity  
9 disbursement received by the school district for the  
10 2009-2010 fiscal year pursuant to section 1306(c)(3).

11 (4) For the fiscal year beginning July 1, 2011, the  
12 amount of each quarterly standard disbursement to a school  
13 district as adjusted by subtracting nonqualified operating  
14 expenses, in accordance with paragraph (6), shall be equal to  
15 25% of the following:

16 (i) a dollar amount equal to the sum calculated  
17 pursuant to paragraph (3)(i) and (iv) as adjusted by the  
18 percentage increase in the CPI for calendar year 2010 and  
19 by the student enrollment adjustment;

20 (ii) a dollar amount equal to loss of revenues  
21 resulting from the complete elimination of the real  
22 property tax as adjusted by the percentage increase in  
23 the CPI for 2010;

24 (iii) the dollar amount calculated pursuant to  
25 paragraph (3)(iii) as adjusted by the percentage increase  
26 in the CPI for 2010; and

27 (iv) a dollar amount equal to the equity  
28 disbursement received by the school district for the  
29 2010-2011 fiscal year pursuant to section 1306(c)(3).

30 (5) For the fiscal year beginning 2012 and for each

1     fiscal year thereafter, the amount of each quarterly  
2     disbursement shall be equal to 25% of the standard  
3     disbursement made in the preceding fiscal year, which shall  
4     include the equity disbursement made pursuant to section  
5     1306(c)(3), as adjusted by the percentage increase in the CPI  
6     for the preceding calendar year and the student enrollment  
7     adjustment and by subtracting nonqualified operating expenses  
8     in accordance with paragraph (6).

9           (6) Any subtraction from the standard disbursement for  
10    nonqualified operating expenses shall only modify the  
11    standard disbursement for the applicable fiscal year and such  
12    subtractions shall not be factored into the standard  
13    disbursements for any subsequent fiscal year.

14    (c) Standard disbursement formula for school districts of  
15    the first class.--After receipt and review of the quarterly draw  
16    requests submitted by school districts under subsection (a), the  
17    board shall make standard disbursements from the fund to each  
18    school district of the first class on or before the last day of  
19    each quarter as follows:

20           (1) For the fiscal year beginning July 1, 2008, the  
21    amount of each quarterly standard disbursement for each  
22    school district of the first class, as adjusted by  
23    subtracting nonqualified operating expenses, in accordance  
24    with paragraph (7), shall be equal to 25% of the following:

25           (i) a sum which shall be equal to all payments and  
26    reimbursements received by the school district for the  
27    2007-2008 fiscal year from qualifying line items in a  
28    general appropriations act that authorizes payments and  
29    reimbursements to the school district for the fiscal year  
30    as adjusted by the percentage increase in the CPI for

1 calendar year 2007 and by the student enrollment  
2 adjustment; and

3 (ii) the dollar amount equal to the 25% reduction in  
4 real property tax and other tax revenues resulting from  
5 the application of section 1102(b)(2) for that fiscal  
6 year.

7 (2) For the fiscal year beginning July 1, 2009, the  
8 amount of each quarterly standard disbursement to a school  
9 district of the first class, as adjusted by subtracting  
10 nonqualified operating expenses, in accordance with paragraph  
11 (7), shall be equal to 25% of the following:

12 (i) a dollar amount equal to the sum calculated  
13 pursuant to paragraph (1)(i) as adjusted by the  
14 percentage increase in the CPI for calendar year 2008 and  
15 by the student enrollment adjustment;

16 (ii) the dollar amount equal to the 50% reduction in  
17 real property tax and other tax revenues resulting from  
18 the application of section 1102(b)(3) for that fiscal  
19 year as adjusted by the percentage increase in the CPI  
20 for 2008; and

21 (iii) a dollar amount equal to the equity  
22 disbursement received by the school district for the  
23 2008-2009 fiscal year pursuant to section 1306(c)(2).

24 (3) For the fiscal year beginning July 1, 2010, the  
25 amount of each quarterly standard disbursement to a school  
26 district of the first class as adjusted by subtracting  
27 nonqualified operating expenses, in accordance with paragraph  
28 (7), shall be equal to 25% of the following:

29 (i) a dollar amount equal to the sum calculated  
30 pursuant to paragraph (2)(i) and (iii) as adjusted by the

percentage increase in the CPI for calendar year 2009 and by the student enrollment adjustment;

(ii) the dollar amount equal to the 75% reduction in real property tax and other tax revenue resulting from the application of section 1102(b)(4) as adjusted by the percentage increase in the CPI for 2009; and

(iii) a dollar amount equal to the equity disbursement received by the school district for the 2009-2010 fiscal year pursuant to section 1306(c)(3).

(4) For the fiscal year beginning July 1, 2011, the amount of each quarterly standard disbursement to a school district of the first class, as adjusted by subtracting nonqualified operating expenses, in accordance with paragraph (7), shall be equal to 25% of the following:

(i) a dollar amount equal to the sum calculated pursuant to paragraph (3)(i) and (iii) as adjusted by the percentage increase in the CPI for calendar year 2010 and by the student enrollment adjustment;

(ii) a dollar amount equal to loss of real property and other tax revenues resulting from the complete implementation of section 1102(b) as adjusted by the percentage increase in the CPI for 2010; and

(iii) a dollar amount equal to the equity disbursement received by the school district for the 2010-2011 fiscal year pursuant to section 1306(c)(3).

(5) For the fiscal year beginning 2012 and for each fiscal year thereafter, the amount of each quarterly disbursement to each school district of the first class shall be equal to 25% of the standard disbursement made in the immediately preceding fiscal year, which shall include the

equity disbursement made pursuant to section 1306(c)(3), as adjusted by the percentage increase in the CPI for the preceding calendar year and the student enrollment adjustment and by subtracting nonqualified operating expenses in accordance with paragraph (7).

(6) Any financial assistance provided by a city of the first class to a school district of the first class for the fiscal year beginning on July 1, 2008, and each succeeding fiscal year, shall be deemed a nonqualified operating expense for purposes of this section.

(7) Any subtraction from the standard disbursement for nonqualified operating expenses shall only modify the standard disbursement for the applicable fiscal year and such subtractions shall not be factored into the standard disbursement for any subsequent fiscal year.

(d) Mandatory duty to pay.--The standard disbursements under this section shall be paid from the EOF regardless of whether the minimum balance has been attained in the ETR Account as set forth under this chapter.

(e) Construction.--Distressed school district and emergency disbursements and Federal funds appropriated by the Commonwealth shall not be incorporated into the standard disbursements authorized by this section and shall not be deemed to be nonqualified expenses.

(f) Limitation on funding reduction for decline in student enrollment.--Notwithstanding anything in this act to the contrary, a reduction in the standard disbursement for a decline in student enrollment shall only be made to the extent that a decline in student enrollment reduces the student enrollment by more than 10% from the student enrollment in that school

1 district at the beginning of the 2008-2009 fiscal year.

2 Section 1305. Education Trust Reserve Account and distressed  
3 district prevention and emergency disbursements.

4 (a) Establishment of Education Trust Reserve Account.--The  
5 Education Trust Reserve Account is hereby established as a  
6 restricted account within the fund. The account shall be  
7 administered by the board in accordance with this section.

8 (b) Distressed district prevention and emergency  
9 disbursements.--

10 (1) (i) As a precondition for making any distressed  
11 district prevention and emergency disbursements during  
12 the 2008-2009 fiscal year, the ETR Account must have a  
13 balance, on June 30, 2008, which is not less than 15% of  
14 the amount specified under section 1304(b)(1)(i) and  
15 (c)(1)(i) for all school districts for the 2007-2008  
16 fiscal year, as adjusted by the change in the consumer  
17 price index and as adjusted by the collective student  
18 enrollment adjustments and the nonqualified operating  
19 expenses determined for all the school districts.

20 (ii) As a precondition for making such disbursements  
21 during the 2009-2010 fiscal year and each succeeding  
22 fiscal year, the ETR Account must have a balance on June  
23 30 immediately preceding the disbursement fiscal year  
24 which is not less than 15% of the revenues allocated by  
25 law for all school districts for the fiscal year  
26 preceding the disbursement fiscal year, as adjusted by  
27 the change in the consumer price index and as adjusted by  
28 the student enrollment adjustments and the nonqualified  
29 operating expenses determined for all school districts  
30 for the immediately preceding 12-month period.

1 (iii) The determination of the amount specified  
2 under section 1304(b)(1)(i) and (c)(1)(i) revenues  
3 allocated for all school districts for purposes of this  
4 paragraph shall be calculated by aggregating the sum  
5 determined for each school district pursuant to section  
6 1304(b)(1)(i) and (c)(1)(i).

7 (2) (i) After disbursements are made pursuant to  
8 sections 1304 and 1307 and after any necessary moneys are  
9 expended to maintain the mandatory minimum 15% ETR  
10 Account balance as provided in paragraph (1),  
11 disbursements authorized by this subsection shall be made  
12 as provided in this paragraph.

13 (ii) An amount equal to not more than 1 1/4% of the  
14 remaining moneys in the EOF and the School District  
15 Equity Account or up to \$125,000,000, whichever is  
16 greater, may be disbursed by the board each quarter  
17 during the 2008-2009, 2009-2010 and 2010-2011 fiscal  
18 years for distressed district prevention and emergency  
19 disbursements.

20 (iii) An amount which shall not exceed .75% of the  
21 remaining moneys in the EOF and the School District  
22 Equity Account may be disbursed by the board for each  
23 quarter during the 2011-2012 fiscal year and each  
24 succeeding fiscal year for each quarter for the sole  
25 purpose of assisting school districts that are facing  
26 major and unanticipated fiscal emergencies.

27 (c) Scope of distressed district prevention and emergency  
28 disbursements.--Distressed district prevention and emergency  
29 disbursements may only be expended for the purpose of preventing  
30 school districts that are experiencing severe financial



1 difficulties from beginning distressed school districts pursuant  
2 to Article VI of the Public School Code of 1949 and for the  
3 purpose of assisting school districts that are facing major and  
4 unanticipated fiscal emergencies.

5 (d) Transfers to Education Trust Reserve Account.--Except  
6 for the moneys necessary to make the disbursements required by  
7 sections 1304 and 1307, the board shall immediately transfer all  
8 moneys deposited in the EOF and the School District Equity  
9 Account, between the effective date of this section and June 30,  
10 2008, into the ETR Account until the ETR Account attains a  
11 balance of \$3,000,000,000 and after June 30, 2008, the board  
12 shall continue to transfer sufficient moneys from the EOF and  
13 the School District Equity Account into the ETR Account to  
14 assure the account achieves and maintains a balance of  
15 \$3,000,000,000 or the mandatory minimum 15% balance mandated  
16 under subsection (b), whichever is greater. The balance in the  
17 ETR Account shall not exceed 25% of the revenues allocated in  
18 accordance with subsection (b)(1).

19 (e) Applicability.--This section shall not apply to moneys  
20 received by the board pursuant to section 1306(b).

21 (f) Definition.--As used in this section, the term  
22 "normalized calculated balance" shall have the meaning given to  
23 it by the board.

24 Section 1306. Equity disbursements to school districts from  
25 School District Equity Account.

26 (a) Establishment of School District Equity Account.--The  
27 School District Equity Account is hereby established as a  
28 restricted account within the fund. The account shall be  
29 administered by the board in accordance with this section.

30 (b) Funding.--The account shall be funded by quarterly

transfers of all moneys deposited into the Property Tax Relief Fund established under 4 Pa.C.S. § 1409 (relating to property tax relief fund) which quarterly transfers are hereby authorized.

(c) Equity disbursements.--

(1) In addition to any standard disbursement or distressed district prevention and emergency disbursement made by the board under this chapter, the board, for the 2008-2009 fiscal year and for each fiscal year thereafter, shall make equity disbursements to qualified school districts on a quarterly basis in accordance with this section and section 1304.

(2) The board shall distribute 100% of the moneys transferred into the School District Equity Account pursuant to subsection (b) during the 2008-2009 fiscal year in equal quarterly amounts, to all school districts as equity disbursements for the 2008-2009 fiscal year in accordance with the formula prescribed in subsection (e). All equity disbursements distributed pursuant to this paragraph shall be incorporated into each school district's standard disbursement for the 2009-2010 fiscal year.

(3) The board shall distribute 50% of the moneys transferred into the School District Equity Account pursuant to subsection (b) in each succeeding fiscal year in equal quarterly amounts to all school districts for the applicable fiscal year in accordance with the formula prescribed in subsection (e). Fifty percent of all equity disbursements distributed pursuant to this paragraph shall be incorporated into each school district's standard disbursement in the fiscal year immediately following the fiscal year for which

1 the school district receives such equity disbursement  
2 pursuant to this paragraph. The remaining 50% of the moneys  
3 that are not distributed in accordance with this paragraph  
4 shall be utilized in accordance with subsection (f).

5 (4) (i) Before any equity disbursements may be made for  
6 any quarter pursuant to this section, the moneys in the  
7 School District Equity Account shall first be expended to  
8 make the standard disbursements to the extent that there  
9 are insufficient funds in the EOF to pay such standard  
10 disbursements and then to assure that the mandatory 15%  
11 minimum balance required under section 1305(b) is  
12 maintained.

13 (ii) All moneys remaining in the account shall be  
14 disbursed to qualified school districts as equity  
15 disbursements and distressed district prevention and  
16 emergency disbursements to the extent permitted under  
17 this section and section 1305.

18 (d) Mandated per pupil expenditure levied through equity  
19 disbursements.--The board shall continue making equity  
20 disbursements pursuant to subsection (c)(2) and (3) until the  
21 average per pupil expenditure for each public school student in  
22 this Commonwealth equals \$10,000 or such higher average per  
23 pupil expenditure for each public school student in this  
24 Commonwealth as may be established pursuant to a subsequently  
25 enacted law that prescribes a higher average per pupil  
26 expenditure for each public school student in this Commonwealth.

27 (e) Distribution formula.--The board shall make the equity  
28 disbursements provided for under subsection (d) in the following  
29 manner:

30 (1) The board shall first distribute equity

1 disbursements in a manner that assures that the average per  
2 pupil expenditure for each school district equals the average  
3 per pupil expenditure for each public school student in this  
4 Commonwealth for the preceding fiscal year.

5 (2) Any remaining funds available for distribution as  
6 equity disbursements in the applicable fiscal year shall be  
7 distributed in a manner that increases the average per pupil  
8 expenditure for each school district by the same percentage  
9 until the per pupil expenditure prescribed in subsection (d)  
10 is attained in each school district with an average per pupil  
11 expenditure below the average per pupil expenditure  
12 prescribed in subsection (d).

13 (f) Remaining funds.--Fifty-percent of the moneys provided  
14 for in subsection (b) that are not expended in accordance with  
15 subsection (c)(2) and (3) shall be utilized in the following  
16 order of priority:

17 (1) For standard disbursements in accordance with  
18 section 1304, to the extent there are insufficient available  
19 funds in the EOF to make a full standard disbursement in any  
20 fiscal year.

21 (2) For transfers to the ETR Account, insofar as such  
22 transfer may be necessary to maintain the reserves in that  
23 account required under this chapter.

24 Section 1307. Other disbursements from Education Operating  
25 Fund.

26 (a) Retirement and pension payments.--For the fiscal year  
27 beginning July 1, 2008, and for each fiscal year thereafter, the  
28 amount of each quarterly disbursement to school districts shall  
29 occur only after the State Treasurer has made payment from the  
30 EOF on requisition from the board of the annual amount due for

1 payment of the Commonwealth's share of Federal Social Security  
2 taxes for public school employees and for payment of the  
3 required retirement contribution for public school employees.

4 (b) Debt payments.--For the fiscal year beginning July 1,  
5 2008, and for each fiscal year thereafter, the amount of each  
6 quarterly payment to school districts shall occur only after the  
7 State Treasurer has made payment from the EOF on requisition  
8 from the board of the annual amount due for school district debt  
9 assumed by the Commonwealth pursuant to law.

10 Section 1307.1. School District Grant and Incentive Programs  
11 Fund.

12 (a) Establishment.--The School District Grant and Incentive  
13 Programs Fund is established in the State Treasury and shall be  
14 administered by the board.

15 (b) Transfers.--

16 (1) For each quarter that the board approves payments  
17 under sections 1304 and 1307, the board shall determine the  
18 balance in the EOF after making such payments and shall  
19 transfer the amount of the balance to the School District  
20 Grant and Incentive Programs Fund.

21 (2) This subsection shall not apply to any moneys  
22 received by the board pursuant to section 1306(b).

23 (c) Appropriations.--The General Assembly may appropriate  
24 money from the School District Grant and Incentive Payment  
25 Programs Fund to the Department of Education for the  
26 administration of programs that offer grants or incentives to  
27 school districts in order to achieve academic and other  
28 education-related goals and standards.

29 (d) Proportionate reductions in disbursements.--In the event  
30 that moneys in the School District Grant and Incentive Payment

1 Programs Fund are insufficient to fund the appropriations from  
2 this fund, the Department of Education shall reduce  
3 disbursements from this fund each appropriation by the same  
4 percentage.

5 Section 1307.2. Other appropriations.

6 Nothing in this act shall preclude the General Assembly from  
7 making appropriations out of the General Fund and other  
8 Commonwealth funds for the maintenance and support of public  
9 education.

10 Section 1308. Education Operating Fund Board.

11 (a) Establishment.--The Education Operating Fund Board is  
12 hereby established. The board shall consist of the following  
13 members:

14 (1) The Secretary of Education, while serving in this  
15 capacity.

16 (2) The Secretary of Revenue, while serving in this  
17 capacity.

18 (3) The executive director of the School Financing  
19 Authority, while serving in this capacity.

20 (4) Four legislative appointees.

21 (i) Appointments are as follows:

22 (A) One individual appointed by the President  
23 pro tempore of the Senate.

24 (B) One individual appointed by the Minority  
25 Leader of the Senate.

26 (C) One individual appointed by the Speaker of  
27 the House of Representatives.

28 (D) One individual appointed by the Minority  
29 Leader of the House of Representatives.

30 (ii) A legislative appointee shall be removed from

office by the appointing authority:

(A) for misconduct in office, willful neglect of duty or conduct evidencing unfitness for office or incompetence; or

(B) upon conviction of an offense graded as a felony, an infamous crime or an equivalent offense under Federal law or the law of another jurisdiction.

(iii) An individual appointed to the board pursuant to subparagraph (i) may not be a member of the General Assembly or staff of a member of the General Assembly.

(b) Chairperson to be selected.--The members shall select a member of the board to serve as chairperson and shall select from among themselves such officers as they shall determine.

(c) Meetings.--The board shall meet at least six times a year at such times and places as it shall determine. Special meetings may be called by the chairman or at the request of a majority of the members of the board.

(d) Quorum.--Five members of the board shall constitute a quorum.

(e) Reimbursement of expenses.--The members of the board shall be entitled to no compensation for their services as members of the board but shall be entitled to reimbursement for all necessary and reasonable expenses incurred in connection with the performance of their duties as members of the board.

(f) Fiduciary status.--The members of the board and the professional personnel of the board shall stand in a fiduciary relationship with the Commonwealth and the authority as to the moneys in the accounts of the authority and investments of the authority.

(g) Standard of care.--The members of the board in

1 performance of their duties under this section shall exercise  
2 the standard of care required by 20 Pa.C.S. Ch. 73 (relating to  
3 municipalities investments).

4 (h) Appointments.--Appointing authorities shall appoint  
5 initial members to the board within 30 days of the effective  
6 date of this section. Whenever a vacancy occurs on the board,  
7 the appointing authority shall appoint a successor member within  
8 30 days of the vacancy.

9 (i) Powers.--The board shall:

10 (1) approve standard disbursements from the fund,  
11 distressed district prevention and emergency distributions  
12 and equity distributions;

13 (2) have perpetual existence as a corporation;

14 (3) sue and be sued, implead and be impleaded, complain  
15 and defend, in all courts;

16 (4) adopt, use and alter at will a corporate seal;

17 (5) make bylaws for the management and regulation of its  
18 affairs;

19 (6) appoint officers, agents, employees and servants,  
20 prescribe their duties and fix their compensation;

21 (7) make contracts of every name and nature, and execute  
22 all instruments necessary or convenient for the carrying-on  
23 of its business, including, but not limited to, the  
24 Commonwealth school districts;

25 (8) without limitation of the foregoing, borrow money  
26 and accept grants from and enter into contracts, leases or  
27 other transaction with any Federal agency, for carrying out  
28 the purposes of the board; and

29 (9) do all acts and things necessary or convenient to  
30 carry out the powers granted to it by this act or any other



1 acts.

2 Section 1309. School Financing Authority.

3 (a) Establishment.--The School Financing Authority is hereby  
4 established.

5 (b) Membership.--The authority shall consist of the  
6 following members:

7 (1) The Secretary of Education, while serving in this  
8 capacity.

9 (2) The State Treasurer, while serving in this capacity.

10 (3) The executive director of the Education Operating  
11 Fund Board, while serving in this capacity.

12 (4) Four persons, one of whom shall be appointed by the  
13 President pro tempore, one appointed by the Minority Leader  
14 of the Senate, one appointed by the Speaker of the House of  
15 Representatives. None of these appointees may be a member of  
16 the General Assembly or a staff member of the General  
17 Assembly. A legislative appointee shall be removed from  
18 office by the appointing authority:

19 (i) for misconduct in office, willful neglect of  
20 duty or conduct evidencing unfitness for office or  
21 incompetence; or

22 (ii) upon conviction of an offense graded as a  
23 felony, an infamous crime, an offense under this act or  
24 an equivalent offense under Federal law or the law of  
25 another jurisdiction.

26 (c) Powers and duties.--

27 (1) The authority shall manage and administer all public  
28 school district debt, including, but not limited to,  
29 consolidating, securitizing, financing, refinancing or  
30 recalling debt for public school facilities for use as a part

1 of the public school system of the Commonwealth. The  
2 authority shall be responsible for the management and  
3 administration of all school district debt and such other  
4 related debt as may be assumed by the Commonwealth.

5 (2) Subject to the provisions in paragraph (3), the  
6 authority is hereby granted and shall have and may exercise  
7 all the powers necessary or convenient for the carrying out  
8 of the purposes identified in paragraph (1), including, but  
9 not limited to, the following:

10 (i) To have perpetual existence as a corporation.

11 (ii) To sue and be sued, implead and be impleaded,  
12 complain and defend in all courts.

13 (iii) To adopt, use and alter at will a corporate  
14 seal.

15 (iv) To acquire, purchase, hold, lease as lessee and  
16 use any property real, personal or mixed, tangible or  
17 intangible, or any interest therein, necessary or  
18 desirable, for carrying out the purposes of the authority  
19 and to sell, lease as lessor, transfer and dispose of any  
20 property or any interest therein at any time acquired by  
21 it.

22 (v) To finance projects by making loans to any  
23 eligible school district, which loans may be evidenced by  
24 and secured as may be provided in loan agreements, which  
25 may contain such provisions as the authority shall  
26 determine necessary or desirable for the security or  
27 protection of the authority or its bondholders. All such  
28 provisions shall be a part of the contract with the  
29 holders of the bonds of the authority issued with respect  
30 to such project.

1           (vi) To acquire by purchase, lease or otherwise, for  
2 carrying out the purposes of the authority.

3           (vii) To make bylaws for the management and  
4 regulations of its affairs.

5           (viii) To make contracts of every name and nature  
6 and to execute all instruments necessary or convenient  
7 for the carrying on of its business, including, but not  
8 limited to, school districts.

9           (ix) To enter into contracts with the board of  
10 school directors of any school district, for the purpose  
11 of acquiring, financing, refinancing, constructing,  
12 improving, furnishing and equipping school district  
13 facilities as a part of the public school system of this  
14 Commonwealth under the provisions approved by a  
15 referendum vote by the district electorate on either the  
16 newly proposed debt or specific terms and amounts of debt  
17 previously approved by the authority.

18           (x) Without limitation of the other provisions of  
19 this subsection, to borrow money and accept grants from,  
20 and to enter into contracts, leases or other transaction  
21 with any Federal agency, for carrying out the purposes of  
22 the authority.

23           (xi) To petition the Commonwealth to obtain  
24 additional public funding for debt service for school  
25 districts unable to raise sufficient funds for essential  
26 project debt service.

27           (xii) To underwrite all long-term capital debt for  
28 all public school districts after June 30, 2008.

29           (xiii) To take all actions necessary and proper to  
30 ensure that the payments made by the Education Operating

1 Fund for school district debt are made at the lowest  
2 possible cost of capital funds providing the best return  
3 for fund expenditures.

4 (xiv) To pledge, hypothecate or otherwise encumber,  
5 all or any of the revenues or receipts of the authority  
6 as security for all, or any of, the obligations of the  
7 authority.

8 (xv) To do all acts and things necessary or  
9 convenient to carry out the powers granted to it by this  
10 section, this act or any other act.

11 (d) Prohibition.--

12 (1) The authority shall have no power, at any time or in  
13 any manner, to pledge the credit or taxing power of the  
14 Commonwealth or any of its school districts, nor shall any of  
15 its obligations or debts be deemed to be obligations of the  
16 Commonwealth or any of its school districts, nor shall the  
17 Commonwealth or any of its school districts be liable for the  
18 payment of principal or interest on such obligations.

19 (2) All school district debt service payments made by  
20 the fund for consolidating, securitizing, financing,  
21 refinancing or recalling school district debt shall be  
22 obligations of the fund or the school districts and not of  
23 the authority.

24 (3) All contracts between the authority and school  
25 districts shall be conditioned upon voter approval, in  
26 accordance with standards and regulations prescribed by the  
27 department. The Department of Education shall review and  
28 approve each school district project referendum including all  
29 terms, conditions and amount of debt to be voted upon prior  
30 to such referendum to determine:

(i) The extent to which they conform to general State and county requirements.

(ii) The amount of debt.

(iii) The adequacy of the proposed project.

(iv) The ability of the local school district or districts to amortize the cost of the project and to defray the cost of operation and maintenance.

(4) No contract may be executed between the authority and school districts without the specific written approval of the board.

Section 1310. Reduction of sales and use tax for education.

(a) General rule.--The tax reduction provided for in this section shall not occur until school equity disbursements for all public school students in this Commonwealth attain the level prescribed in section 1306(d) and until the criteria set forth in subsections (b) and (c), whichever subsection is applicable, are met.

(b) Initial reduction.--

(1) When the board determines that the EOF, the ETR Account and the School District Equity Account have maintained a normalized calculated balance that collectively exceeds the annual standard disbursement to all school districts for the immediately preceding fiscal year by at least 40% for a period of eight consecutive quarters, the board, in consultation with the Department of Revenue, shall publish this determination as a notice in the Pennsylvania Bulletin. The notice shall specify:

(i) the amount of money in the EOF and other accounts in excess of 40% of the standard disbursement to all school districts on the last day of the fiscal year

1 immediately preceding this determination; and

2 (ii) the percentage by which the normalized  
3 calculated balance exceeds such standardized disbursement  
4 for the fiscal year preceding the board's determination.

5 (2) Beginning with the first quarter occurring 30 days  
6 after such publication, the Department of Revenue shall  
7 reduce the rate of the tax imposed under Subchapter B of  
8 Chapter 7 by the amount in excess of 40% of the standard  
9 disbursement as published in the Pennsylvania Bulletin  
10 pursuant to this subsection.

11 (c) Subsequent tax reduction.--

12 (1) Whenever the EOF, the ETR Account and the School  
13 District Equity Account attain a normalized calculated  
14 balance that collectively exceeds the standard disbursement  
15 to school districts in the immediately preceding fiscal year  
16 by a percentage that exceeds the percentage last published  
17 pursuant to subsection (b) or this subsection for a period of  
18 eight consecutive quarters, the board, in consultation with  
19 the Department of Revenue, shall publish this determination  
20 as a notice in the Pennsylvania Bulletin. The notice shall  
21 specify:

22 (i) the collective amount of money in the EOF and  
23 other accounts in excess of the standard disbursement to  
24 all school districts on the last day of the fiscal year  
25 immediately preceding this determination; and

26 (ii) the percentage published in connection with the  
27 last tax reduction effectuated under this section.

28 (2) Following such publication, the Department of  
29 Revenue shall further reduce the rate of such tax by the  
30 amount that equals the difference between the amount of money

1 in the EOF and its accounts on the last day of the fiscal  
2 year published in accordance with this subsection and the  
3 amount published in connection with the immediately preceding  
4 tax reduction effectuated pursuant to this section.

5 (d) Restriction on tax increases.--Once the tax rate for a  
6 tax imposed under Subchapter B of Chapter 7 is reduced pursuant  
7 to this subsection, that rate of tax may only be increased by a  
8 law enacted by the General Assembly.

9 (e) Increments.--Any tax reduction implemented in accordance  
10 with this section shall be made in increments of not less than  
11 .10%.

12 (f) Definition.--As used in this section, the term  
13 "normalized calculated balance" shall mean the rolling 12-month  
14 average of the collective balance in the EOF, the ETR Account  
15 and the School District Equity Account, as determined each  
16 quarter by the board for the eight quarters immediately  
17 preceding each quarter.

18 Section 1311. School Equity Capital Construction Fund.

19 (a) Establishment.--The School Equity Capital Construction  
20 Fund is established in the State Treasury.

21 (b) Contents.--

22 (1) The School Equity Capital Construction Fund shall  
23 consist of:

24 (i) All moneys received pursuant to subsection (f).

25 (ii) All payments received from school districts in  
26 connection with any financing provided to such school  
27 districts by the authority.

28 (iii) All other moneys received pursuant to this act  
29 or any other law or from any other source.

30 (c) Separate fund.--The SECCF shall be separate from all

1 other funds of the Commonwealth and shall not be subject to  
2 borrowing by or transfer to the General Fund or any other fund  
3 in the State Treasury.

4 (d) Continuing appropriations.--All moneys placed in the  
5 SECCF and the interest it accrues are hereby appropriated to the  
6 authority on a continuing basis and may be utilized by the  
7 authority only for the purposes authorized under this act.

8 (e) Loans to school district.--The authority may utilize  
9 moneys in the SECCF to make loans, including interest-free  
10 loans, to school districts for projects authorized under section  
11 1204.

12 (f) Distribution of funds to SECCF.--

13 (1) Except as otherwise provided in subsection (g), the  
14 board, in each fiscal year, may transfer from the Education  
15 Operating Fund to the SECCF a sum that shall not be less than  
16 25% nor more than 100% of the incremental savings resulting  
17 from the Commonwealth assumption of debt pursuant to section  
18 1203 as applied to the applicable fiscal year.

19 (2) As used in this section, the term "incremental  
20 savings" means the difference between the Commonwealth's debt  
21 assumption payments in the first full fiscal year in which  
22 such payments are made and the Commonwealth debt assumption  
23 payments scheduled for the applicable fiscal year for which  
24 the board makes a transfer of funds to the SECCF pursuant to  
25 this subsection.

26 (g) Cap on transfers to SECCF.--No payments shall be made to  
27 the SECCF pursuant to subsection (f) to the extent that such  
28 payments will cause the total amount of money in the SECCF to  
29 exceed \$10,000,000,000.

30 (h) Use of SECCF for equity remediation.--The authority may



1 only utilize moneys transferred to the SECCF pursuant to this  
2 section to assist school districts that require equity  
3 remediation assistance as determined by the authority for the  
4 construction of projects authorized under this section and  
5 section 1204 and which are approved by voter referendum pursuant  
6 to section 1205.

7 (i) Limitation.--No funds shall be transferred from the  
8 Education Operating Fund to the SECCF for any fiscal year to the  
9 extent that it is necessary to utilize such funds for the  
10 purpose of making standard disbursements pursuant to section  
11 1304 and for making payments required under section 1307.

12 Section 1312. School Equity Distribution Task Force.

13 (a) Establishment.--A School Equity Distribution Task Force  
14 shall be constituted every ten years beginning in 2017 for the  
15 purpose of conducting a comprehensive study on the adequacy and  
16 equity of existing funding for public education in this  
17 Commonwealth or selecting and supervising the conduct of such a  
18 study by a qualified person or entity. The task force shall  
19 prepare a report, together with recommendations for the General  
20 Assembly. Each report shall be completed by November 30 of the  
21 immediately following calendar year and shall be a public  
22 record.

23 (b) Composition of task force and selection of chairman.--  
24 The task force shall consist of five members. The Governor, the  
25 President pro tempore of the Senate, the Speaker of the House of  
26 Representatives and the Minority Leader of the Senate and the  
27 Minority Leader of the House of Representatives shall each  
28 appoint one member to the task force. The task force shall  
29 select a chairman from its membership.

30 (c) Term of task force.--The task force shall hold its

organizing meeting on the date scheduled by the Governor in April of the applicable year and shall complete its report by November 30 of the immediately following calendar year.

(d) Notice.--The Governor shall notify the President pro tempore of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate and the Minority Leader of the House of Representatives of the organizing meeting for the task force on the date specified in subsection (c) of the applicable year and advise the leaders of the need to make their respective appointments before that date.

## CHAPTER 15

### SCHOOL DISTRICT FISCAL EFFICIENCY TOOLS

Section 1501. Purpose of chapter.

The purpose of this chapter is to provide school districts with the tools necessary to achieve maximum fiscal effectiveness in the performance of their powers and duties and to provide a thorough and efficient system of public education at the lowest possible cost to the citizens of this Commonwealth.

Section 1502. Data-driven decision-making technology requirements.

(a) General rule.--No later than July 1, 2010, each school district shall enter into a contract with a data-driven decision-making total systems vendor and submit a copy of the contract to the Department of Education.

(b) Required elements.--The contract shall include, but not be limited to, the following elements as components of data-driven decision making:

(1) The use of large, integrated databases that connect relevant information from other sources into a single accessible format. The databases shall allow the school

1 district, intermediate unit and the Department of Education  
2 to look at data from multiple operational systems across  
3 multiple dimensions, including time. The system contracted  
4 shall have the advantage of importing and analyzing data from  
5 a variety of other systems that cannot otherwise communicate  
6 with each other.

7 (2) Assessment and diagnostic tools that determine  
8 students' mastery levels of standards, powerful assessment  
9 solutions, which provide instant feedback for diagnostic use  
10 by teachers, and robust data warehousing and analysis  
11 solutions which provide historical and longitudinal  
12 capabilities for using and managing data effectively for  
13 student performance improvement.

14 (3) Curriculum management systems to integrate each  
15 teacher's curriculum planning, lesson plans and grade  
16 reporting into a standards-based system.

17 (4) Instruction and practice systems to align curriculum  
18 and instructional resources to State and local standards.

19 (5) Student information systems primarily concerned with  
20 issues of day-to-day student administration.

21 (6) Data analysis and reporting systems to allow  
22 analysis and student performance over time and across  
23 variables like district, school, program or classroom. The  
24 systems shall include messaging and collaboration technology.

25 (7) Definitive goals toward increasing the value and  
26 return of data-driven decision-making technology investment,  
27 project management integrated with State education goals and  
28 time lines, requirements specification definitions, the  
29 formation of both an implementation team and an evaluation  
30 committee and planned verification meetings as a result of

1 contract implementation.

2 (8) Quality instruction integrated with formative  
3 assessment and supported by data-driven action research that  
4 informs professional practice and instructional  
5 effectiveness.

6 Section 1503. Certified operations reports.

7 (a) Duty of school districts to file.--During the fiscal  
8 year beginning July 1, 2009, and each fiscal year thereafter,  
9 each school district shall submit certified operations reports  
10 to the Department of Education. The report shall consist of  
11 independent third-party certification that contracts have been  
12 or are being completed in school district operations.

13 (b) Contents.--The certification reports shall state  
14 whether:

15 (1) The data-driven decision-making systems installed  
16 will provide a robust data architecture that are optimized  
17 based on prescribed district data requirements.

18 (2) The systems installed will provide a powerful and  
19 easy to use "user reporting and analysis" interface.

20 (3) The systems installed and implemented will  
21 facilitate the school district's ability to improve student  
22 achievement and organizational efficiency economy; impact the  
23 quality of education; are designed with students in mind; and  
24 discriminate as to what changes or decisions can be made to  
25 have the best outcomes for students.

26 (4) Compliance with State district integration  
27 objectives is being satisfied to the extent that the district  
28 superintendent has a basis for expecting to report the  
29 evidence required in the July 1, 2011, report.

30 Section 1504. Superintendent report.

1 (a) Duty of superintendents to file.--During the fiscal year  
2 beginning July 1, 2010, and each fiscal year thereafter, each  
3 superintendent shall submit to the Department of Education a  
4 comprehensive report for the district, indicating that the  
5 intended purposes and goals, performance and accountability  
6 technology are being realized in practice, whether data-driven  
7 decisions are affecting the district allocations of its budget  
8 and funding requests from the Education Operating Fund.

9 (b) Contents.--The superintendent's report shall include,  
10 but not be limited to, an administrative and technology  
11 assessment of the district's schools' ability to:

12 (1) Generate reports on standards, curriculum,  
13 instructional approaches and progress based on the analysis  
14 of student and teacher population subgroups which lead to  
15 improved instruction approaches.

16 (2) Create a variety of additional reports as needed to  
17 analyze information deemed critical to students, teachers and  
18 school administration that measure academic progress and meet  
19 the requirements of the Department of Education.

20 (3) Provide essential accountability results for  
21 district schools and meet prescribed accountability reports  
22 for the district as determined by the Department of  
23 Education.

24 (4) Evaluate technology progress to drive better  
25 decision making for curriculum and other factors affecting  
26 student and school achievement and other district goals.

27 (5) Make fiscal budget decisions reallocating the use of  
28 moneys from the Education Operating Fund to better prioritize  
29 all aspects of each school's and district's educational  
30 processes.

1           (6) Analyze factors that impact learning and enable  
2           action to help improve student achievement.

3           (7) Document improvement and share information with  
4           other schools, districts and State education agencies.

5   Section 1505. Annual performance report.

6           (a) Duty of school district to file.--During the fiscal year  
7           beginning July 1, 2010, and each fiscal year thereafter, each  
8           school district shall submit to the Department of Education a  
9           comprehensive annual report, indicating how the intended  
10          purposes and goals of performance and accountability technology  
11          are being realized in the administration of the district, and  
12          that includes clear case studies, white papers and other  
13          documents which indicate that data-driven decisions are  
14          affecting the district allocations of its budget and moneys from  
15          the Education Operating Fund to achieve acceptable levels of  
16          performance as set by peer benchmark or other evaluations.

17          (b) Contents.--The annual performance report shall include,  
18          but not be limited to, the following:

19               (1) A continuing report of the prior year's subjects  
20               addressed by the superintendent report, amended with changes  
21               deemed appropriate by the board of the school district.

22               (2) A demonstration of ways in which the district's  
23               data-driven analysis is beginning to enable the evaluation of  
24               student progress, ways in which daily results are cycled  
25               through a data warehouse to map curriculum for assignments  
26               and test results.

27               (3) Actions taken to improve learning by improving  
28               instructional approaches with data-driven analysis,  
29               integrating and building on existing technology, offering  
30               access to learning resources and continuing improvement by

tracking performance.

(4) A demonstration of the factors that are district-causing trends, identify root causes of performance and analyze the effectiveness of changes initiated in the learning environment.

(5) A demonstration of budget decisions directly affected by changes in the districts' efforts to improve student achievement and increase administrative efficiency by focusing on student improvement in a new era of technology application to education.

(6) An assessment of the future direction to be taken for continuing performance improvement and advances in data-driven decision making to determine economic efficiencies and financial discipline achievable in budget allocations and spending decisions.

## CHAPTER 17

### MISCELLANEOUS PROVISIONS

Section 1701. Transitional provision.

(a) Sales and use tax.--Notwithstanding the repeal of Article II of the Tax Reform Code of 1971, under section 1704, the department shall have the authority to enforce the collection of taxes imposed for transactions that occur prior to the effective date of this section under former Article II of the Tax Reform Code of 1971. The taxes collected after January 1, 2008, regardless of the transaction date, shall be deposited into the Education Operating Fund.

(b) Other taxes.--Notwithstanding the repeal of any provision of the Public School Code of 1949, the Local Tax Enabling Act, as applied to school districts or of any other law authorizing school districts to impose taxes, a governing body

1 shall have the authority to enforce, after the effective date of  
2 the repeal, the collection of taxes levied and assessed under  
3 those former provisions prior to the effective date of the  
4 repeal under section 1704(2).

5 Section 1702. Construction.

6 Any and all references in any other act to Article II or any  
7 provision in Article II of the act of March 4, 1971 (P.L.6,  
8 No.2), known as the Tax Reform Code of 1971, shall be deemed a  
9 reference to Chapter 7 or the corresponding provisions in  
10 Chapter 7 of this act.

11 Section 1703. (Reserved).

12 Section 1704. Repeals.

13 (a) Intent.--The General Assembly declares that the repeals  
14 under subsection (b) are necessary to effectuate this act.

15 (b) Provisions.--The following acts and parts of acts are  
16 repealed:

17 (1) Section 631 of the act of March 10, 1949 (P.L.30,  
18 No.14), known as the Public School Code of 1949, is repealed.

19 (2) The school per capita tax, which tax is authorized  
20 pursuant to section 679 of the Public School Code of 1949, is  
21 repealed.

22 (3) Article XXV of the Public School Code of 1949 is  
23 repealed insofar as Article XXV authorized Commonwealth  
24 payments and reimbursements to school districts that have  
25 been incorporated into the standard disbursements formula as  
26 provided in section 1304 of this act.

27 (4) Any provision of the Public School Code of 1949 and  
28 of any other law relating to the authority of any school  
29 district to levy, assess and collect any tax on real property  
30 and the power of any city of the first class to levy, assess



1 and collect any tax real property for school purposes is  
2 repealed upon the expiration of the respective schedule  
3 prescribed in sections 1101 and 1102.

4 (5) Any provision of the act of the Public School Code  
5 of 1949 and any other law relating to debt is repealed to the  
6 extent that it is inconsistent with this act.

7 (6) Any provision of the Public School Code of 1949 and  
8 any home rule charter adopted pursuant thereto is repealed  
9 insofar as it is inconsistent with this act.

10 (7) Any provision of the act of August 9, 1963 (P.L.643,  
11 No.341), known as the First Class City Public Education Home  
12 Rule Act, and any home rule school district charter adopted  
13 pursuant thereto is repealed insofar as it is inconsistent  
14 with this act.

15 (8) The act of December 31, 1965 (P.L.1257, No.511),  
16 known as The Local Tax Enabling Act, is repealed insofar as  
17 it authorizes the levy, assessment and collection by school  
18 districts of any tax as of midnight on December 31, 2008.

19 (9) Article II of the act of March 4, 1971 (P.L.6,  
20 No.2), known as the Tax Reform Code of 1971, is repealed.

21 (10) Chapter 13 of the act of June 27, 2006 (1st  
22 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,  
23 is repealed.

24 (11) All acts and parts of acts that are inconsistent  
25 with this act are repealed to the extent of such  
26 inconsistency.

27 Section 1705. Severability.

28 The provisions of this act are severable as follows:

29 (1) If any provision of this act is held invalid, the  
30 invalidity shall not affect other provisions or applications

1 of this act which can be given effect without the invalid  
2 provision or application.

3 (2) Under no circumstances shall the invalidity of any  
4 provision or application of this act affect the validity of  
5 any provision in this act that abolishes the power of the  
6 governing body and any school district and city of the first  
7 class or any other political subdivision to levy, assess or  
8 collect a tax on any interest in real property for school  
9 purposes.

10 Section 1706. Effective date.

11 This act shall take effect as follows:

12 (1) Section 1704(9) shall take effect at midnight on  
13 December 31, 2007.

14 (2) Chapter 7 shall take effect January 1, 2008.

15 (3) Section 1704(2) and (8) shall take effect at  
16 midnight on December 31, 2008.

17 (4) Chapters 3, 4 and 5 shall take effect January 1,  
18 2009.

19 (5) The remainder of this act shall take effect  
20 immediately.