
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2460 Session of
2002

INTRODUCED BY BENNINGHOFF, ARMSTRONG, CAPPELLI, CLYMER, COSTA,
CREIGHTON, FEESE, HALUSKA, HARPER, HERMAN, LAUGHLIN,
MICHLOVIC, READSHAW, SCHULER, B. SMITH, THOMAS, WILT,
ZIMMERMAN AND EGOLF, MARCH 26, 2002

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 26, 2002

AN ACT

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

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24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:
26 CHAPTER 1
27 GENERAL PROVISIONS
28 Section 101. Short title.
29 This act shall be known and may be cited as the Optional
30 Local Tax Enabling Act.

1 Section 102. Definitions.

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

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

12 "Compensation." As defined in section 301 of the act of
13 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
14 1971.

15 "County." A county-level municipality within this
16 Commonwealth, regardless of classification. The term includes a
17 county which has adopted a home rule charter or optional plan of
18 government under the former act of April 13, 1972 (P.L.184,
19 No.62), known as the Home Rule Charter and Optional Plans Law,
20 or under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and
21 optional plan government). The term does not include a county of
22 the first class.

23 "Current year." The calendar year or fiscal year for which
24 the tax is levied.

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

26 "Domicile." As defined in section 13 of the act of December
27 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling
28 Act.

29 "Earned income." The classes of income defined as earned
30 income in section 13 of the act of December 31, 1965 (P.L.1257,

1 No.511), known as The Local Tax Enabling Act.

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

4 "Governing body." The board of county commissioners,
5 including the successor in function to the board of county
6 commissioners in a county which has adopted a home rule charter
7 under the former act of April 13, 1972 (P.L.184, No.62), known
8 as the Home Rule Charter and Optional Plans Law, or under 53
9 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional
10 plan government), city council, borough council, incorporated
11 town council, board of township commissioners, board of township
12 supervisors, a governing council of a home rule municipality or
13 optional plan municipality, a governing council of any similar
14 general purpose unit of government which may hereafter be
15 created by statute, or a board of school directors of a school
16 district. The term does not include the city council of a city
17 of the first class.

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

23 "Individual." As defined in section 301 of the act of March
24 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

25 "Inverse per capita income." A factor determined by dividing
26 the integer one by the per capita income of the municipality, as
27 determined by the most recent survey by the Department of
28 Community and Economic Development.

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

1 "Municipal service tax." A tax upon residents and
2 nonresidents employed within a municipality.

3 "Municipality." A city of the second class, city of the
4 second class A, city of the third class, borough, incorporated
5 town, township of the first class, township of the second class,
6 home rule municipality, optional plan municipality, optional
7 form municipality or similar general purpose unit of government
8 which may hereafter be created by statute, except a city of the
9 first class and any municipality located within a county of the
10 first class.

11 "Net profits." The classes of income defined as net profits
12 in section 13 of the act of December 31, 1965 (P.L.1257,
13 No.511), known as The Local Tax Enabling Act.

14 "Nonresident." An individual domiciled outside the
15 municipality.

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

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

26 "Ordinance." Includes a resolution.

27 "Personal income." Income enumerated in section 303 of the
28 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
29 of 1971, as returned to and ascertained by the Department of
30 Revenue, subject, however, to any correction thereof for fraud,

1 evasion or error as finally ascertained by the Commonwealth.

2 "Preceding year." The calendar year or fiscal year before
3 the current year.

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

5 "Relative tax effort." The total tax revenues from all
6 sources of a municipality as reported to the Department of
7 Community and Economic Development, divided by the total tax
8 revenues from all sources from all municipalities in the county.

9 "Resident individual." An individual who is domiciled in a
10 municipality or school district.

11 "School district." A school district of the first class A,
12 second class, third class or fourth class, including any
13 independent school district.

14 "Statewide average weekly wage." That amount determined
15 annually for each calendar year by the Department of Labor and
16 Industry under section 105.1 of the act of June 2, 1915
17 (P.L.736, No.338), known as the Workers' Compensation Act.

18 "Succeeding year." The calendar year or fiscal year
19 following the current year.

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

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

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

27 "Weighted formula." A formula dividing an allocation into
28 thirds, with one-third based on relative population, one-third
29 based on relative tax effort and one-third based on the relative
30 inverse per capita income.

1 Section 103. Scope and limitations.

2 (a) General rule.--Except as provided in subsections (b),
3 (c) and (d), it is the intent of this act to confer upon each
4 county, municipality and school district the power to levy,
5 assess and collect taxes upon the subjects of taxation set forth
6 in this act.

7 (b) Real estate transfer taxes.--This act does not affect
8 the powers of a municipality or school district to levy, assess
9 and collect a real estate transfer tax, including any real
10 estate transfer tax levied under the authority of section
11 652.1(a)(4) of the act of March 10, 1949 (P.L.30, No.14), known
12 as the Public School Code of 1949.

13 (c) Mercantile or business privilege taxes on gross
14 receipts.--Nothing in this act shall, either explicitly or
15 implicitly, permit a county, municipality or school district to
16 impose or increase the rate of any mercantile or business
17 privilege tax on gross receipts not otherwise permitted prior to
18 the effective date of this act, nor shall any provision of this
19 act affect the prohibitions on business gross receipts taxes as
20 set forth in section 2 of the Local Tax Enabling Act, section
21 533 of the act of December 13, 1988 (P.L.1121, No.145), known as
22 the Local Tax Reform Act, the Tax Reform Code and any other
23 relevant act.

24 (d) Limitations.--

25 (1) The provisions of this act shall not apply to any
26 county of the first class.

27 (2) The provisions of this act shall not apply to any
28 municipality or school district located within a county of
29 the first class.

30 (3) The provisions of this act shall not apply to any

1 city of the first class.

2 Section 104. Preemption.

3 No act of the General Assembly will vacate or preempt any
4 ordinance adopted under this act providing for the imposition of
5 a tax by a county, municipality or school district unless the
6 act of the General Assembly expressly vacates or preempts the
7 authority to adopt the ordinance.

8 Section 105. Certain rates of taxation limited.

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

18 CHAPTER 3

19 SUBJECTS OF TAXATION

20 SUBCHAPTER A

21 TAX AUTHORIZATION

22 Section 301. General tax authorization.

23 (a) General rule.--Subject to sections 303 and 304 and
24 except as provided in subsection (b), each county, municipality
25 or school district shall have the power and may by ordinance
26 levy, assess and collect or provide for the levying, assessment
27 and collection of such taxes on the subjects specified in this
28 chapter for general revenue purposes as it shall determine on
29 any or all of the subjects of taxation set forth in this act
30 within the geographical limits of the county, municipality or

1 school district.

2 (b) Exclusions.--No county, municipality or school district
3 which levies a tax authorized by this act shall have any power
4 or authority to levy, assess or collect:

5 (1) A tax based upon a flat rate or on a millage rate on
6 an assessed valuation of a particular trade, occupation or
7 profession, commonly known as an occupation assessment tax.

8 (2) A tax at a set or flat rate upon persons employed
9 within the taxing district, commonly known as an occupational
10 privilege tax.

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

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

14 (5) Any other tax authorized or permitted under the
15 Local Tax Enabling Act except a mercantile or business
16 privilege tax on gross receipts, as modified by paragraph
17 (9).

18 (6) An earned income tax under the act of August 24,
19 1961 (P.L.1135, No.508), referred to as the First Class A
20 School District Earned Income Tax Act, or under the
21 additional authority in section 652.1(a)(2) of the act of
22 March 10, 1949 (P.L.30, No.14), known as the Public School
23 Code of 1949.

24 (7) Any tax under section 652.1(a)(4) of the Public
25 School Code of 1949 except as it pertains to real estate
26 transfer taxes.

27 (8) The intangible personal property tax under the act
28 of June 17, 1913 (P.L.507, No.335), referred to as the
29 Intangible Personal Property Tax Law.

30 (9) Any mercantile or business privilege tax on gross

1 receipts, as limited by section 533 of the act of December
2 13, 1988 (P.L.1121, No.145), known as the Local Tax Reform
3 Act, after one year from the date of the election to
4 participate under this act pursuant to section 303.

5 (10) Any other tax authorized under the Local Tax
6 Enabling Act as limited by the provisions of this act.

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

9 Section 302. Continuity of tax.

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

14 Section 303. Election to participate under act.

15 Any governing body which desires to participate under the
16 provisions of this act shall make that determination by the
17 adoption of an ordinance.

18 Section 304. Increase of property taxes previously reduced.

19 A governing body of a municipality, county or school district
20 which elects to participate under this act pursuant to section
21 303(a) may not increase the rate of real property taxes that
22 were reduced using revenue derived from an income and/or sales
23 tax imposed under this act or any other act by an amount
24 exceeding the annual percent change in the Statewide average
25 weekly wage in the preceding year.

26 SUBCHAPTER B

27 COUNTY SALES AND USE TAX

28 Section 311. Construction.

29 The tax imposed by the governing body of a county under this
30 subchapter shall be in addition to any tax imposed by the

1 Commonwealth under Article II of the Tax Reform Code. Except for
2 the differing situs provisions under section 313, the provisions
3 of Article II of the Tax Reform Code shall apply to the tax.
4 Section 312. Imposition.

5 (a) Sales.--The governing body of a county, except for a
6 county of the first class, may levy and assess upon each
7 separate sale at retail of tangible personal property or
8 services, as defined in Article II of the Tax Reform Code,
9 within the boundaries of the county, a tax on the purchase
10 price. The tax shall be collected by the vendor from the
11 purchaser and shall be paid over to the Commonwealth as provided
12 in this subchapter. The sales tax shall not be paid to the
13 Commonwealth by any person who has paid the tax imposed under
14 Chapter 5 of the act of June 5, 1991 (P.L.9, No.6), known as the
15 Pennsylvania Intergovernmental Cooperation Authority Act for
16 Cities of the First Class, or subdivision (e) of Article XXXI-B
17 of the act of July 28, 1953 (P.L.723, No.230), known as the
18 Second Class County Code, equal to or greater than the tax
19 imposed under this subsection.

20 (b) Use.--In any county, except for a county of the first
21 class, within which the tax authorized in subsection (a) is
22 imposed, there shall be levied, assessed and collected upon the
23 use, within the county, of tangible personal property purchased
24 at retail and on services purchased at retail, as defined in
25 Article II of the Tax Reform Code, a tax on the purchase price.
26 The tax shall be paid over to the Commonwealth by the person who
27 makes the use. The use tax imposed under this subchapter shall
28 not be paid over to the Commonwealth by any person who has paid
29 the tax imposed under:

30 (1) Subsection (a).

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

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

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

(c) Occupancy.--In any county within which a tax authorized by subsection (a) is imposed, there shall be levied, assessed and collected an excise tax on the rent upon every occupancy of a room or rooms in a hotel in the county. The tax shall be collected by the operator or owner from the occupant and paid over to the Commonwealth.

(d) Rate and uniformity.--

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

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

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

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

(a) General rule.--Except as provided in subsections (b) and (c), the situs of sales at retail or uses, including leases, of motor vehicles, aircraft, motorcraft and utility services shall

1 be determined in the manner specified by section 504 of the act
2 of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania
3 Intergovernmental Cooperation Authority Act for Cities of the
4 First Class, as well as the act of March 4, 1971 (P.L.6, No.2),
5 known as the Tax Reform Code of 1971.

6 (b) Premium cable services.--The sale or use of premium
7 cable service shall be deemed to occur at the service address in
8 the county which is the address where the customer cable
9 connection is located. This subsection shall determine the situs
10 of premium cable service for the purpose of all local sales
11 taxes, including those imposed pursuant to Chapter 5 of the
12 Pennsylvania Intergovernmental Cooperation Authority Act for
13 Cities of the First Class and pursuant to subdivision (e) of
14 Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230),
15 known as the Second Class County Code.

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

26 Section 314. Licenses.

27 A license for the collection of the tax imposed by this
28 subchapter shall be issued in the same manner as is provided for
29 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known
30 as the Pennsylvania Intergovernmental Cooperation Authority Act

1 for Cities of the First Class. Licensees shall be entitled to
2 the same discount as provided in section 227 of the Tax Reform
3 Code.

4 Section 315. Rules and regulations; collection costs.

5 (a) Regulations.--Rules and regulations shall be applicable
6 to the taxes imposed under section 312 in the same manner as is
7 provided for in section 506(1) and (2) of the act of June 5,
8 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
9 Cooperation Authority Act for Cities of the First Class.

10 (b) Administrative costs.--The department, to cover its
11 costs of administration under this subchapter, shall be entitled
12 to retain a sum equal to the costs of administration. When the
13 annual operating budget for the department is submitted to the
14 General Assembly, the department shall also submit to the
15 chairman and minority chairman of the Appropriations Committee
16 of the Senate and to the chairman and minority chairman of the
17 Appropriations Committee of the House of Representatives a
18 report of the actual sums retained for costs of collection in
19 the preceding fiscal year, together with all supporting details.
20 Section 316. Procedure and administration.

21 (a) Ordinance.--Any county desiring to impose the tax
22 authorized by section 312 shall give at least 60 days' written
23 notice to every municipality and school district located in the
24 county of its intent to impose the tax and shall adopt an
25 ordinance after the expiration of 60 days after the date of such
26 notice. The notice and ordinance shall state the tax rate and
27 refer to this subchapter. The ordinance shall authorize the
28 imposition of all taxes provided for in section 312. Prior to
29 adopting an ordinance imposing the tax authorized by section
30 312, the governing body of the county shall give public notice

1 of its intent to adopt the ordinance in the manner provided by
2 section 4 of the Local Tax Enabling Act and shall conduct at
3 least one public hearing regarding the proposed adoption of the
4 ordinance.

5 (b) Notification to department.--A certified copy of the
6 county ordinance shall be delivered to the department by June 1
7 of the year prior to the effective date thereof. The county
8 ordinance shall become effective on the January 1 following at
9 least seven months after the date of enactment of the county
10 ordinance.

11 (c) Delivery of repeal ordinance.--A certified copy of a
12 repeal ordinance shall be delivered to the department at least
13 120 days prior to the effective date of the repeal.

14 Section 317. County sales and use tax funds.

15 There is hereby created for each county levying the tax under
16 section 312 the (proper name) County Sales and Use Tax Fund. The
17 State Treasurer shall be custodian of the funds which shall be
18 subject to the provisions of law applicable to funds listed in
19 section 302 of the act of April 9, 1929 (P.L.343, No.176), known
20 as The Fiscal Code. Taxes imposed under section 312 shall be
21 received by the department and paid to the State Treasurer and,
22 along with interest and penalties, less any collection costs
23 allowed under this subchapter and any refunds and credits paid,
24 shall be credited to the funds not less frequently than every
25 two weeks. During any period prior to the credit of moneys to
26 the funds, interest earned on moneys received by the department
27 and paid to the State Treasurer under this subchapter shall be
28 deposited into the funds. All moneys in the funds, including,
29 but not limited to, moneys credited to the funds under this
30 section, prior year encumbrances and the interest earned

1 thereon, shall not lapse or be transferred to any other fund,
2 but shall remain in the funds. Pending their disbursement,
3 moneys received on behalf of or deposited into the funds shall
4 be invested or reinvested as are other moneys in the custody of
5 the State Treasurer in the manner provided by law. All earnings
6 received from the investment or reinvestment of the moneys shall
7 be credited to the respective funds. The Auditor General shall
8 periodically audit the records of the department relative to its
9 duties under this section and shall furnish the results of such
10 audit to any county levying the sales and use tax under section
11 312 and to any municipality or school district qualified under
12 section 320.

13 Section 318. Disbursements.

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

19 (b) Disbursement to counties.--The State Treasurer shall
20 disburse to a county imposing the tax authorized under section
21 312 an amount of money equal to 50% of the tax collected in that
22 county and remitted to the department and deposited in the
23 respective county sales and use tax fund. The county shall
24 deposit the revenue from the respective county sales and use tax
25 fund into the county general fund for disposition as provided
26 under section 701(a).

27 (c) Disbursement to municipalities.--The State Treasurer
28 shall, at the same time, disburse to the municipalities 25% of
29 the tax collected in their respective counties as provided in
30 section 320. Each municipality's portion shall be deposited in

1 the municipal general fund for disposition as provided in
2 section 701(b).

3 (d) Disbursement to school districts.--The State Treasurer
4 shall, at the same time, disburse to the school districts 25% of
5 the tax collected in their respective counties as provided in
6 section 320. Each school district's portion shall be deposited
7 in the school district's general fund for disposition as
8 provided in section 701(b).

9 Section 319. Adoption of municipal resolutions and school
10 district petitions.

11 (a) General rule.--No municipality shall be entitled to a
12 disbursement under section 318(c) and no school district shall
13 be entitled to a disbursement under section 318(d) unless one of
14 the following applies:

15 (1) Prior to enactment of the county ordinance, it
16 adopts a municipal resolution or a school district petition
17 containing the statement:

18 We strongly urge the county to enact a county sales
19 and use tax and intend to accept disbursements of the
20 sales and use taxes collected.

21 Any municipality which does not enact a resolution and any
22 school district which does not enact a petition in compliance
23 with this paragraph shall not be entitled to and shall not
24 receive any distribution from funds collected during the
25 first 24 months immediately following the initial date of
26 imposition of such tax.

27 (2) Prior to October 1 of any year after the enactment
28 of the county resolution, it adopts a municipal resolution or
29 a school district petition containing the statement:

30 We support the enactment by the county of the county

1 sales and use tax and strongly urge its continuation
2 and intend to accept disbursements of the sales and
3 use taxes collected.

4 (b) Delivery.--A certified copy of the municipal resolution
5 or the school district petition shall be delivered to the county
6 commissioners, the department and the State Treasurer on or
7 before the enactment of the county resolution or October 15 of
8 any year thereafter, as the case may be.

9 Section 320. Qualified municipalities and school districts.

10 (a) General rule.--

11 (1) The State Treasurer shall distribute, on a weighted
12 formula basis, to each municipality that qualifies under
13 subsection (c) the appropriate percentage of revenues
14 received from the county sales and use tax.

15 (2) The State Treasurer shall distribute to each school
16 district that qualifies under subsection (c) a portion of the
17 total disbursement to school districts which is equal to the
18 total disbursement to school districts multiplied by the
19 ratio of average daily membership of the school district
20 divided by the sum of the average daily membership of all
21 school districts in the county. For the purposes of this
22 section, "average daily membership" shall mean "average daily
23 membership" as defined by the act of March 10, 1949 (P.L.30,
24 No.14), known as the Public School Code of 1949. For school
25 districts located in more than one county, the average daily
26 membership shall be multiplied by a factor calculated by
27 dividing the square mileage of the school district located in
28 the county by the total square mileage of the school
29 district.

30 (b) Retention by county.--If a municipality or school

1 district fails to meet the requirements of subsection (c), its
2 disbursement shall be included in the disbursement to the county
3 under section 318(b).

4 (c) Qualifications.--Municipalities and school districts
5 qualified to receive disbursements under this section are
6 municipalities and school districts located within the county
7 which adopt in a timely fashion the resolution or petition
8 required under section 319.

9 Section 320.1. Municipal and school district sales and use tax
10 initiative.

11 (a) General rule.--Whenever the governing body of a county
12 elects to impose a tax on personal income under section
13 322(c)(1) or a local tax on earned income under section 331(c),
14 at least a majority of the municipalities and school districts
15 within that county can require the governing body of the county
16 to also impose the sales and use tax as provided in section 312.

17 (b) Procedure.--

18 (1) Whenever any municipality or school district of a
19 county determines that the governing body of that county has
20 elected not to impose a tax under section 312, that
21 municipality or school district may place before the
22 governing bodies of all the municipalities and school
23 districts of that county the following question:

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

27 (2) The affirmative votes of the governing bodies of
28 municipalities and school districts representing at least a
29 majority of the municipalities and school districts within
30 the county shall be required to approve the question.

1 (3) The governing body of the county, upon receipt of
2 certifications from the participating municipalities and
3 school districts indicating approval of the question shall,
4 for the next calendar year and thereafter, impose the tax
5 authorized under section 312.

6 (4) Municipalities and school districts intending to
7 receive proceeds from the imposition of the tax shall also
8 meet the requirements of section 319, provided that
9 municipalities and school districts voting affirmatively
10 under this subsection shall be deemed to meet the
11 requirements of section 319 for the year of initial
12 imposition.

13 SUBCHAPTER C

14 PERSONAL INCOME TAX

15 Section 321. Construction.

16 The tax imposed by the governing body of a county,
17 municipality or school district under this subchapter shall be
18 in addition to any tax imposed by the Commonwealth under Article
19 III of the Tax Reform Code. Except for the differing provisions
20 under sections 501 and 502, the provisions of Article III of the
21 Tax Reform Code shall apply to the tax.

22 Section 322. Local personal income tax.

23 (a) Municipalities.--A municipality shall have the power to
24 levy, assess and collect a local tax on the personal income of
25 resident individuals of the municipality up to a maximum rate of
26 1%, in increments of 0.25 of 1%.

27 (b) School districts.--Each school district shall have the
28 power to levy, assess and collect a local tax on personal income
29 of resident individuals of the school district up to a maximum
30 rate of 2%, in increments of 0.25 of 1%.

1 (c) Counties.--

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

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

15 Section 323. Collections.

16 Any county, municipality or school district imposing a tax
17 under section 322(a), (b) or (c) shall designate the tax officer
18 who is appointed under section 10 of the Local Tax Enabling Act,
19 or otherwise by law, as the collector of the county,
20 municipality or school district local personal income tax. In
21 the performance of the tax collection duties under this
22 subchapter, the designated tax officer shall have all the same
23 powers, rights, responsibilities and duties for the collection
24 of the taxes which may be imposed under the Local Tax Enabling
25 Act or as otherwise provided by law.

26 Section 324. Rules and regulations.

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

30 Section 325. Procedure and administration.

1 The governing body of the municipality, school district or
2 county, in order to impose the tax authorized by section 322,
3 shall adopt an ordinance which shall refer to this subchapter.
4 Prior to adopting an ordinance imposing the tax authorized by
5 section 322, the governing body shall give public notice of its
6 intent to adopt the ordinance in the manner provided by section
7 4 of the Local Tax Enabling Act and shall conduct at least one
8 public hearing regarding the proposed adoption of the ordinance.

9 SUBCHAPTER D

10 EARNED INCOME AND NET PROFITS TAX

11 Section 331. Earned income and net profits tax.

12 (a) Municipalities.--In lieu of imposing the tax under
13 section 322, a municipality shall have the power to levy, assess
14 and collect a tax on the earned income and net profits of
15 resident individuals of the municipality up to a maximum rate of
16 1%, in increments of 0.25 of 1%. Any municipality which imposes
17 a tax under this subsection shall not impose any tax under
18 section 322.

19 (b) School districts.--In lieu of imposing the tax under
20 section 322, a school district shall have the power to levy,
21 assess and collect a tax on the earned income and net profits of
22 resident individuals of the school district up to a maximum rate
23 of 2%, in increments of 0.25 of 1%. Any school district which
24 imposes a tax under this subsection shall not impose any tax
25 under section 322.

26 (c) Counties.--

27 (1) Except as provided in paragraph (2), in lieu of
28 imposing the tax under section 312, each county shall have
29 the power and may levy, assess and collect a tax on the
30 earned income and net profits of resident taxpayers of the

1 county up to a maximum rate of 0.5% in increments of 0.25% of
2 1%. Any county which imposes a tax under this paragraph may
3 not impose a tax under section 322.

4 (2) If the governing body of a county is required to
5 also impose a sales and use tax under section 320.1(a), in
6 addition to imposing a tax under section 312, the county
7 shall have the power and may levy, assess and collect a tax
8 on the earned income and net profits of resident taxpayers of
9 the county up to a maximum rate of 0.5% in increments of
10 0.25%.

11 Section 332. Collections.

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

21 Section 333. Rules and regulations.

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

25 Section 334. Procedure and administration.

26 The governing body of the municipality, school district or
27 county, in order to impose the tax authorized by section 331,
28 shall adopt an ordinance which shall refer to this subchapter.
29 Prior to adopting an ordinance imposing the tax authorized by
30 section 331, the respective governing body shall give public

1 notice of its intent to adopt the ordinance in the manner
2 provided by section 4 of the Local Tax Enabling Act, and shall
3 conduct at least one public hearing regarding the proposed
4 adoption of the ordinance.

5 SUBCHAPTER E

6 MUNICIPAL SERVICE TAX

7 Section 341. Municipal service tax.

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

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

14 (c) Situs for tax.--Subject to the limitations in section
15 342, the situs of a municipal service tax shall be the place of
16 employment.

17 Section 342. Multiple employment locations.

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

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

25 (2) The municipality in which the person resides and
26 works if the tax is levied by that municipality.

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

30 (b) Place of employment.--The place of employment shall be

1 determined as of the day the taxpayer first becomes subject to
2 the tax during the calendar year.

3 (c) Liability.--No person shall be required to pay more than
4 \$30 in any calendar year without regard to the number of
5 municipalities within which the person may be employed.

6 Section 343. Collection procedures.

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

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

22 SUBCHAPTERS F THROUGH I (RESERVED)

23 CHAPTER 5

24 CREDITS, EXEMPTIONS AND DEFERRALS

25 SUBCHAPTER A

26 CREDITS AND EXEMPTIONS

27 Section 501. Credits.

28 The provisions of section 14 of the Local Tax Enabling Act
29 shall be used to determine any credits under this act for any
30 taxes imposed under section 322 on the earned income portion of

1 the personal income tax or under section 331.

2 Section 502. Low-income tax provisions.

3 The provisions of section 304 of the Tax Reform Code shall be
4 applied by any municipality, school district or county which
5 levies a tax under section 322 or 331.

6 Section 503. Municipal service tax exemption.

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

11 Section 504. Regulations.

12 Each county, municipality or school district may adopt
13 regulations for the processing of claims under sections 501, 502
14 and 503.

15 SUBCHAPTERS B THROUGH J (RESERVED)

16 CHAPTER 7

17 DISPOSITION OF TAX REVENUES

18 Section 701. Sales tax revenues.

19 (a) Counties.--

20 (1) In the fiscal year of implementation, each county
21 that imposes a sales and use tax under this act shall use all
22 revenues from the tax first to offset any lost revenue to the
23 county from the taxes prohibited under section 301(b) in an
24 amount equal to the revenue the county collected from the
25 prohibited taxes in the immediately preceding fiscal year;
26 and then to reduce the county real property tax in the
27 following order:

28 (i) By means of an exclusion for homestead property
29 pursuant to 53 Pa.C.S. § 8583 (relating to exclusion for
30 homestead property).

1 (ii) By means of a reduction in the millage rate
2 after the limit on the exclusion for homestead property
3 has been reached under 53 Pa.C.S. § 8586 (relating to
4 limitations).

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

21 (b) Municipalities and school districts under Chapter 3.--

22 (1) All sales and use tax revenues received by any
23 municipality or school district which has elected to
24 participate under sections 303 and 319 shall be used to
25 reduce the municipal real property tax or the school district
26 real property tax, respectively, by means of a homestead
27 exemption.

28 (2) A municipality or school district which has elected
29 to proceed only under section 319 shall use the sales and use
30 tax revenues received to reduce or eliminate the real

property tax or any taxes prohibited under section 301(b).
Section 702. Income tax and municipal service tax revenues.

(a) Municipalities.--The disposition of revenue from an income tax or municipal service tax or an increase in the rate of an income tax or municipal service tax imposed by a municipality under the authority of this act shall occur in the following manner:

(1) For the fiscal year of implementation of a newly imposed income tax or municipal service tax, all revenues received by a municipality shall first be used to offset any lost revenue to the municipality from the taxes prohibited under section 301(b) in an amount equal to the revenue the municipality collected from the prohibited taxes in the immediately preceding fiscal year; and then to reduce the municipal real property tax in the following order:

(i) By means of an exclusion for homestead property pursuant to 53 Pa.C.S. § 8583 (relating to exclusion for homestead property).

(ii) By means of a reduction in the millage rate after the limit on the exclusion for homestead property has been reached under 53 Pa.C.S. § 8586 (relating to limitations).

(2) For the fiscal year of implementation of an increase in the rate of an existing local income tax imposed under this chapter, all revenue received by the municipality directly attributable to the increased rate shall be used to reduce the municipal real property tax in the following order:

(i) By means of an exclusion for homestead property pursuant to 53 Pa.C.S. § 8583.

(ii) By means of a reduction in the millage rate after the limit on the exclusion for homestead property has been reached under 53 Pa.C.S. § 8586.

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

(b) Second through fourth class school districts.--The disposition of revenue from an income tax or an increase in the rate of an income tax imposed by school districts of the second through fourth class under the authority of this act shall occur in the following manner:

(1) For the fiscal year of implementation of a newly imposed income tax, all revenues received by a school district of the second through fourth class shall first be used to offset any lost revenue to the school district from the taxes prohibited under section 301(b) in an amount equal to the revenue the school district collected from the prohibited taxes in the immediately preceding fiscal year; and then to reduce the school district real property tax in the following order:

(i) By means of an exclusion for homestead property pursuant to Pa.C.S. § 8583.

(ii) By means of a reduction in the millage rate after the limit on the exclusion for homestead property has been reached under 53 Pa.C.S. § 8586.

(2) For the fiscal year of implementation of an increase

1 in the rate of an existing local income tax imposed under
2 this chapter, all revenue received by a school district
3 directly attributable to the increased rate shall be used to
4 reduce the school district real property tax in the following
5 order:

6 (i) By means of an exclusion for homestead property
7 pursuant to 53 Pa.C.S. § 8583.

8 (ii) By means of a reduction in the millage rate
9 after the limit on the exclusion for homestead property
10 has been reached under 53 Pa.C.S. § 8586.

11 (3) For the fiscal year of implementation of an increase
12 in the rate of income tax, all revenues received by a school
13 district in excess of current revenue plus the percentage
14 increase in the Statewide average weekly wage or 5%,
15 whichever is less, shall be used to reduce the school
16 district of the second through fourth class real property tax
17 by means of a homestead exemption.

18 (c) Counties.--The disposition of revenue from an income tax
19 or an increase in the rate of an income tax imposed by a county
20 under the authority of this act shall occur in the following
21 manner:

22 (1) For the fiscal year of implementation of a newly
23 imposed income tax, all revenues received by a county shall
24 first be used to offset any lost revenue to the county from
25 the taxes prohibited under section 301(b) in an amount equal
26 to the revenue the county collected from the prohibited taxes
27 in the immediately preceding fiscal year; and then to reduce
28 the county real property tax in the following order:

29 (i) By means of an exclusion for homestead property
30 pursuant to 53 Pa.C.S. § 8583.

1 (ii) By means of a reduction in the millage rate
2 after the limit on the exclusion for homestead property
3 has been reached under Pa.C.S. § 8586.

4 (2) For the fiscal year of implementation of an increase
5 in the rate of an existing local income tax imposed under
6 this chapter, all revenue received by the county directly
7 attributable to the increased rate shall be used to reduce
8 the county real property tax in the following order:

9 (i) By means of an exclusion for homestead property
10 pursuant to 53 Pa.C.S. § 8583.

11 (ii) By means of a reduction in the millage rate
12 after the limit on the exclusion for homestead property
13 has been reached under 53 Pa.C.S. § 8586.

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

20 (d) Revenue estimates of department.--The department shall
21 provide to each taxing jurisdiction that imposes an income tax
22 under this act an estimate of the total dollar amount of revenue
23 that the taxing jurisdiction can expect to receive from an
24 income tax for the fiscal year of implementation. The department
25 may charge the taxing jurisdiction for the actual costs of
26 calculating the requested estimates. Guidelines concerning the
27 costs shall be published in the Pennsylvania Bulletin. In the
28 event the actual dollar amount of income tax revenue received by
29 a taxing jurisdiction is less than the estimate of income tax
30 revenue provided by the department, the taxing jurisdiction may

1 increase its real property tax millage rate to the level
2 necessary to offset any shortfall resulting from an
3 overestimation of income tax revenue, as certified by the
4 department, in the fiscal year of implementation. Such increase
5 shall not be subject to section 304(a).

6 CHAPTER 9

7 REGISTER FOR CERTAIN TAXES

8 Section 901. Definitions.

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

12 "Department." The Department of Community and Economic
13 Development of the Commonwealth.

14 Section 902. Register for taxes under this act.

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

20 (b) Contents of register.--The register and its supplements
21 shall list:

22 (1) The counties, municipalities or school districts
23 levying local personal income tax, earned income and net
24 profits tax, municipal service tax or sales and use tax.

25 (2) The rate of tax as stated in the ordinance levying
26 the tax.

27 (3) The rate on taxpayers.

28 (4) The name and address of the tax officer responsible
29 for administering the collection of the tax and from whom
30 information, forms for reporting and copies of rules and

1 regulations are available.

2 Section 903. Information for register.

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

14 Section 904. Availability and effective period of register.

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

21 Section 905. Effect of nonfiling.

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

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

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

3 CHAPTER 51

4 MISCELLANEOUS PROVISIONS

5 Section 5101. Effective date.

6 This act shall take effect January 1, 2003.