

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1275 Session of 2009

INTRODUCED BY ROHRER, BOBACK, BENNINGHOFF, CALTAGIRONE, COX, CREIGHTON, DAY, DENLINGER, FAIRCHILD, GIBBONS, GILLESPIE, GOODMAN, GROVE, HARRIS, HENNESSEY, KAUFFMAN, M. KELLER, KNOWLES, MAHONEY, MILLER, MOUL, MUSTIO, PHILLIPS, QUIGLEY, ROCK, SANTONI, SAYLOR, SCHRODER, SEIP, SWANGER AND TALLMAN, OCTOBER 30, 2009

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 30, 2009

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 expiration of authority to
 10 issue certain debt, for reporting by local government units
 11 of debt outstanding and for assumption of certain debt by the
 12 Commonwealth; establishing the Education Operating Fund and
 13 the School District Grant and Incentive Programs Fund;
 14 providing for disbursements from these funds and for
 15 transfers from the Property Tax Relief Fund to the Education
 16 Operating Fund; establishing the School Financing Authority
 17 and providing for its powers and duties; providing for
 18 certain rebates and assistance to senior citizens; adding
 19 provisions relating to school district fiscal efficiency;
 20 establishing the School Equity Capital Construction Fund and
 21 the School Equity Distribution Task Force; and repealing
 22 certain provisions of The Local Tax Enabling Act, sales and
 23 use tax provisions of the Tax Reform Code of 1971 and
 24 provisions relating to senior citizens property tax and rent
 25 rebate assistance in the Taxpayer Relief Act.

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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 The Local Tax Enabling Act and
19 shall conduct at least one public hearing regarding the
20 proposed adoption of the resolution.

21 Section 305. Continuity of tax.

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

26 Section 306. Exemption of low-income persons.

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

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

Section 307. Collection of personal income tax.

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

Section 308. Limitation on assessment.

No assessment may be made of any personal 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.

Section 309. Distress and sale of property of taxpayer.

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

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

Section 310. Collection of delinquent taxes from employers.

(a) General rule.--The tax officer shall demand, receive and collect from all employers employing persons owing delinquent personal income taxes or having in possession unpaid compensation belonging to any person or persons owing delinquent

1 personal income taxes on the presentation of a written notice
2 and demand certifying that the information contained in the
3 notice and demand is true and correct and containing the name of
4 the taxpayer and the amount of tax due.

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

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

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

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

1 not have the benefit of any exemption law or stay of execution.

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

7 Section 311. Collection of delinquent taxes from Commonwealth.

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

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

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

26 Section 312. Notice to taxpayer.

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

taxpayer's employer unless the tax is paid. The return receipt card for registered mail shall be marked delivered to addressee only, and the cost of notification by registered mail shall be included in the costs for collecting taxes.

Section 313. Collection of taxes by suit.

(a) Power to collect.--

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

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

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

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

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

(2) If an examination of the declaration or return filed by any person, or of other evidence relating to the declaration or return in the possession of the tax officer,

1 reveals a fraudulent evasion of taxes, there shall be no
2 limitation.

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

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

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

15 Section 314. Interest and penalties.

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

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

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

1 due shall be waived in total or in part if the taxpayer
2 voluntarily files delinquent returns and pays the taxes in
3 full during the period so established.

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

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

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

16 (a) Conduct prohibited.--

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

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

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

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

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

17 Section 316. Collection at source.

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

27 (b) Duty to deduct tax.--

28 (1) Every employer having an office, factory, workshop,
29 branch, warehouse or other place of business within the
30 school district imposing a tax on personal income who employs

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

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

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

29 (c) Duty to file annual return.--On or before February 28 of
30 the succeeding year, every employer shall file with the tax

1 officer:

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

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

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

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

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

1 relating to the filing of declarations and returns.

2 SUBCHAPTER B

3 EDUCATION TAX

4 Section 321. Education tax.

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

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

15 (c) Imposition of tax.--

16 (1) Every resident individual, estate or trust shall be
17 subject to, and shall pay for the privilege of receiving each
18 of the classes of income enumerated in section 303 of the Tax
19 Reform Code of 1971, a tax upon each dollar of income
20 received by that resident during that resident's taxable year
21 at the rate of .55%.

22 (2) Every nonresident individual, estate or trust shall
23 be subject to, and shall pay for the privilege of receiving
24 each of the classes of income enumerated in section 303 of
25 the Tax Reform Code of 1971 from sources within this
26 Commonwealth, a tax upon each dollar of income received by
27 that nonresident during that nonresident's taxable year at
28 the rate of .55%.

29 (d) Deposit in Education Operating Fund.--All moneys
30 collected under this section shall be deposited in the Education

1 Operating Fund.

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

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

9 CHAPTER 4

10 STATE REALTY TRANSFER TAX

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

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

16 (b) Imposition of tax.--

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

29 (2) The tax imposed under this section shall apply to
30 transactions that occur on or after January 1, 2012.

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

Section 402. Deposit of existing Commonwealth realty transfer tax.

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

CHAPTER 5

EARNED INCOME TAX

Section 501. Scope.

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

Section 502. Definitions.

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

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

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

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

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

"Department." The Department of Community and Economic

1 Development of the Commonwealth.

2 "Domicile."

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

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

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

18 "Earned income."

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

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

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

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

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

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

4 "Political subdivision." A school district.

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

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

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

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

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

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

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

21 Section 503. Preemption.

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

28 Section 504. Earned income tax authorization.

29 (a) School districts.--Except as prohibited under Chapter
30 11, each school district shall have the power and may, by

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

7 (b) Adoption of referendum.--

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

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

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

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

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

30 (iv) A nonlegal interpretative statement must

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

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

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

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

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

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

30 (7) (i) In order to levy the tax under this section,

1 the governing body shall adopt a resolution which refers
2 to this chapter prior to placing a question on the
3 ballot.

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

10 Section 505. Continuity of tax.

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

15 Section 506. Exemption of low-income persons.

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

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

21 Section 507. Collection of earned income tax.

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

24 Section 508. Limitation on assessment.

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

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

30 (a) General rule.--In case of the neglect or refusal of any

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

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

14 Section 510. Collection of delinquent taxes from employers.

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

23 (b) Response to notice.--On the presentation of the written
24 notice and demand, the employer shall deduct from the earned
25 income of the employees then owing, or thereafter due, a sum
26 sufficient to pay the amount of the delinquent earned income
27 taxes, interest, penalty and costs shown on the written notice
28 or demand, and shall pay the same to the tax officer by which
29 the delinquent tax was levied within 60 days after the notice
30 was given.

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

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

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

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

25 Section 511. Collection of delinquent taxes from Commonwealth.

26 (a) General rule.--On presentation of a written notice and
27 demand under oath to the State Treasurer or any other fiscal
28 officer of the Commonwealth, or its boards, authorities,
29 agencies or commissions, the treasurer or officer shall deduct
30 from the compensation then owing a sum sufficient to pay the

1 amount of the delinquent earned income taxes, interest, penalty
2 and costs shown on the written notice. The same shall be paid to
3 the tax officer within 60 days after the notice is given.

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

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

13 Section 512. Notice to taxpayer.

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

22 Section 513. Collection of taxes by suit.

23 (a) Power to collect.--

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

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

30 (3) The power to collect unpaid taxes under the

provisions of this section shall not be affected by the fact that such taxes have been entered as liens in the office of the prothonotary or the fact that the property against which they were levied has been returned to the county commissioners for taxes for prior years.

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

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

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

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

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

(c) Procedures.--The tax officer shall establish the procedures for collecting the earned income tax and paying the full amount collected over to the school district on a quarterly

1 basis.

2 Section 514. Interest and penalties.

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

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

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

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

23 (c) Proceedings.--The provisions of subsection (b) shall not
24 affect or terminate any petitions, investigations, prosecutions
25 or other proceedings pending on the effective date of this
26 section, or prevent the commencement or further prosecution of
27 any proceedings by the proper authorities for violations of this
28 act. No proceedings shall, however, be commenced on the basis of
29 delinquent returns filed pursuant to subsection (b) if the
30 returns are determined to be substantially true and correct and

1 the taxes are paid in full within the prescribed time.

2 Section 515. Fines and penalties for violation of resolutions.

3 (a) Conduct prohibited.--

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

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

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

30 (c) Defense unavailable.--The failure of any person to

1 receive or procure forms required for making the declaration or
2 returns required by the resolution shall not excuse the person
3 from making the declaration or return.

4 Section 516. Collection at source.

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

14 (b) Duty to deduct tax.--

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

30 (2) Unless otherwise agreed upon between the tax officer

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

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

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

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

25 (2) A return withholding statement for each employee
26 employed during all or any part of the period beginning
27 January 1 of the current year and ending December 31 of the
28 current year, setting forth the employee's name, address and
29 Social Security number, the amount of earned income paid to
30 the employee during the period, the amount of tax deducted,

1 the school district imposing the tax upon the employees and
2 the amount of tax paid to the tax officer. Every employer
3 shall furnish two copies of the individual return to the
4 employee for whom it is filed.

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

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

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

20 CHAPTER 7

21 SALES AND USE TAX FOR EDUCATION

22 SUBCHAPTER A

23 PRELIMINARY PROVISIONS

24 Section 701. Scope.

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

29 Section 701.1. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 (a) "Soft drinks."

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

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

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

25 (1) Having, maintaining or using within this
26 Commonwealth, either directly or through a subsidiary,
27 representative or an agent, an office, distribution house,
28 sales house, warehouse, service enterprise or other place of
29 business; or any agent of general or restricted authority, or
30 representative, irrespective of whether the place of

1 business, representative or agent is located in this
2 Commonwealth, permanently or temporarily, or whether the
3 person or subsidiary maintaining the place of business,
4 representative or agent is authorized to do business within
5 this Commonwealth.

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

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

29 (3.1) Entering this Commonwealth by any person to
30 provide assembly, service or repair of tangible personal

1 property, either directly or through a subsidiary,
2 representative or an agent.

3 (3.2) Delivering tangible personal property to locations
4 within this Commonwealth if the delivery includes the
5 unpacking, positioning, placing or assembling of the tangible
6 personal property.

7 (3.3) Having any contact within this Commonwealth which
8 would allow the Commonwealth to require a person to collect
9 and remit tax under the Constitution of the United States.

10 (3.4) Providing a customer's mobile telecommunications
11 service deemed to be provided by the customer's home service
12 provider under the Mobile Telecommunications Sourcing Act (4
13 U.S.C. § 116). For purposes of this clause, words and phrases
14 used in this clause shall have the meanings given to them in
15 the Mobile Telecommunications Sourcing Act.

16 (4) The term does not include:

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

21 (A) the property is for use by the commercial
22 printer; and

23 (B) the property is located at the Pennsylvania
24 premises of the commercial printer.

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

29 (c) "Manufacture." The performance of manufacturing,
30 fabricating, compounding, processing or other operations,

1 engaged in as a business, which place any tangible personal
2 property in a form, composition or character different from that
3 in which it is acquired whether for sale or use by the
4 manufacturer, and shall include, but not be limited to:

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

22 (2) The publishing of books, newspapers, magazines and
23 other periodicals and printing.

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

28 (4) Building, rebuilding, repairing and making additions
29 to, or replacements in or upon vessels designed for
30 commercial use of registered tonnage of 50 tons or more when

1 produced on special order of the purchaser, or when rebuilt,
2 repaired or enlarged, or when replacements are made upon
3 order of or for the account of the owner.

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

6 (i) product or utility service; or

7 (ii) method of producing a product or utility
8 service,

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

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

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

1 tangible personal property, nor the cooking, freezing or
2 baking of fruits, vegetables, mushrooms, fish, seafood,
3 meats, poultry or bakery products. For purposes of this
4 clause, the following terms or phrases have the following
5 meanings:

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

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

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

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

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

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

26 (1.1) The processing of fruits or vegetables by
27 cleaning, cutting, coring, peeling or chopping and treating
28 to preserve, sterilize or purify and substantially extend the
29 useful shelf life of the fruits or vegetables, when the
30 person engaged in the activity packages the property in

1 sealed containers for wholesale distribution.

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

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

11 (3.1) The blanking, shearing, leveling, slitting or
12 burning of metals for sale to or use by a manufacturer or
13 processor.

14 (4) The rolling, drawing or extruding of ferrous and
15 nonferrous metals.

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

20 (6) The preparation of animal feed or poultry feed for
21 sale.

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

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

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

1 (9.1) The aging, stripping, conditioning, crushing and
2 blending of tobacco leaves for use as cigar filler or as
3 components of smokeless tobacco products for sale to
4 manufacturers of tobacco products.

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

9 (11) The processing of used lubricating oils.

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

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

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

23 (15) The preparation of dry or liquid fertilizer for
24 sale.

25 (16) The production, processing and packaging of ice for
26 wholesale distribution.

27 (17) The producing of mobile telecommunications
28 services.

29 (e) "Person." Any natural person, association, fiduciary,
30 partnership, corporation or other entity, including the

1 Commonwealth of Pennsylvania, its political subdivisions and
2 instrumentalities and public authorities. Whenever used in
3 prescribing and imposing a penalty or imposing a fine or
4 imprisonment, or both, the term as applied to an association,
5 includes the members of the association and, as applied to a
6 corporation, the officers of the corporation.

7 (f) "Purchase at retail."

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

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

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

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

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

28 The term, with respect to liquor and malt or brewed beverages,
29 includes the purchase of liquor from any Pennsylvania Liquor
30 Store by any person for any purpose, and the purchase of malt or

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

13 (g) "Purchase price."

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

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

30 (3) (i) In determining the purchase price on the sale

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

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

25 (4) Where there is a transfer or retention of possession
26 or custody, whether it is termed a rental, lease, service or
27 otherwise, of tangible personal property including, but not
28 limited to, linens, aprons, motor vehicles, trailers, tires,
29 industrial office and construction equipment, and business
30 machines the full consideration paid or delivered to the

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

16 (5) (i) With respect to the tax imposed by section
17 702(a)(2), on any tangible personal property originally
18 purchased by the user of the property six months or
19 longer prior to the first taxable use of the property
20 within this Commonwealth, the user may elect to pay tax
21 on a substituted base determined by considering the
22 purchase price of the property for tax purposes to be
23 equal to the prevailing market price of similar tangible
24 personal property at the time and place of the first use
25 within this Commonwealth.

26 (ii) The election must be made at the time of filing
27 a tax return with the department and reporting the tax
28 liability and paying the proper tax due plus all accrued
29 penalties and interest, if any, within six months of the
30 due date of such report and payment, as provided for by

section 717(a) and (c).

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

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

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

(h) "Purchaser." Any person who acquires, for a consideration, the ownership, custody or possession by sale, lease or otherwise of tangible personal property, or who obtains

1 services in exchange for a purchase price but not including an
2 employer who obtains services from his employees in exchange for
3 wages or salaries when such services are rendered in the
4 ordinary scope of their employment.

5 (i) "Resale."

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

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

27 (3) The term also includes tangible personal property
28 purchased or having a situs within this Commonwealth solely
29 for the purpose of being processed, fabricated or
30 manufactured into, attached to or incorporated into tangible

1 personal property and thereafter transported outside this
2 Commonwealth for use exclusively outside this Commonwealth.

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

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

17 (j) "Resident."

18 (1) Any natural person:

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

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

23 (2) Any corporation:

24 (i) incorporated under the laws of this
25 Commonwealth;

26 (ii) authorized to do business or doing business
27 within this Commonwealth; or

28 (iii) maintaining a place of business within this
29 Commonwealth.

30 (3) Any association, fiduciary, partnership or other

1 entity:

2 (i) domiciled in this Commonwealth;

3 (ii) authorized to do business or doing business
4 within this Commonwealth; or

5 (iii) maintaining a place of business within this
6 Commonwealth.

7 (k) "Sale at retail."

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

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

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

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

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

25 (4) The rendition for a consideration of the service of
26 repairing, altering, mending, pressing, fitting, dyeing,
27 laundering, drycleaning or cleaning tangible personal
28 property other than wearing apparel or shoes, or applying or
29 installing tangible personal property as a repair or
30 replacement part of other tangible personal property other

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

9 (5) (Reserved).

10 (6) (Reserved).

11 (7) (Reserved).

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

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

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

25 (A) The manufacture of tangible personal
26 property.

27 (B) Farming, dairying, agriculture, horticulture
28 or floriculture when engaged in as a business
29 enterprise. The term "farming" includes the
30 propagation and raising of ranch raised fur-bearing

1 animals and the propagation of game birds for
2 commercial purposes by holders of propagation permits
3 issued under 34 Pa.C.S. (relating to game) and the
4 propagation and raising of horses to be used
5 exclusively for commercial racing activities.

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

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

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

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

7 (ii) construction materials, supplies or equipment
8 used to construct, reconstruct, remodel, repair or
9 maintain a building, road or similar structure; or

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

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

28 (10) The term, with respect to liquor and malt or brewed
29 beverages, includes the sale of liquor by any Pennsylvania
30 liquor store to any person for any purpose, and the sale of

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

14 (11) The rendition for a consideration of lobbying
15 services.

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

18 (13) The rendition for a consideration of secretarial or
19 editing services.

20 (14) The rendition for a consideration of disinfecting
21 or pest control services, building maintenance or cleaning
22 services.

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

25 (16) (Reserved).

26 (17) The rendition for a consideration of lawn care
27 service.

28 (18) The rendition for a consideration of self-storage
29 service.

30 (19) The rendition for a consideration of a mobile

1 telecommunications service.

2 (20) Except as otherwise provided under section 704:

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

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

16 (A) performed completely in this Commonwealth;

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

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

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

29 (iii) With respect to services, other than
30 telecommunication services, the services performed

1 partially in this Commonwealth and partially outside this
2 Commonwealth shall be presumed to have been performed
3 completely in this Commonwealth unless the taxpayer can
4 show the place of performance by clear and convincing
5 evidence.

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

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

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

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

27 (m) "Tangible personal property." Corporeal personal
28 property including, but not limited to, goods, wares,
29 merchandise, steam and natural and manufactured and bottled gas
30 for non-residential use, electricity for non-residential use,

1 prepaid telecommunications, premium cable or premium video
2 programming service, spirituous or vinous liquor and malt or
3 brewed beverages and soft drinks, interstate telecommunications
4 service originating or terminating in this Commonwealth and
5 charged to a service address in this Commonwealth, intrastate
6 telecommunications service with the exception of:

7 (1) Subscriber line charges and basic local telephone
8 service for residential use.

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

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

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

23 (o) "Use."

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

28 (2) The obtaining by a purchaser of the service of
29 printing or imprinting of tangible personal property when the
30 purchaser furnishes, either directly or indirectly, the

1 articles used in the printing or imprinting.

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

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

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

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

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

30 (B) The use or consumption of tangible personal

1 property, including, but not limited to, machinery
2 and equipment and parts therefor, and supplies or the
3 obtaining of the services described in subclauses
4 (2), (3) and (4) of this clause directly in the
5 operations of:

6 (i) The manufacture of tangible personal property.

7 (ii) Farming, dairying, agriculture, horticulture or
8 floriculture when engaged in as a business enterprise.

9 The term includes the propagation and raising of ranch-
10 raised furbearing animals and the propagation of game
11 birds for commercial purposes by holders of propagation
12 permits issued under 34 Pa.C.S. (relating to game) and
13 the propagation and raising of horses to be used
14 exclusively for commercial racing activities.

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

20 (iv) Processing as defined in subclause (d).

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

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

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

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

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

26 (5) Where tangible personal property or services are
27 utilized for purposes constituting a use, and for purposes
28 excluded from the definition of "use," it shall be presumed
29 that the property or services are utilized for purposes
30 constituting a sale at retail and subject to tax unless the

1 user proves to the department that the predominant purposes
2 for which the property or services are utilized do not
3 constitute a sale at retail.

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

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

27 (8) (Reserved).

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

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

1 (11) The obtaining by the purchaser of secretarial or
2 editing services.

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

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

8 (14) (Reserved).

9 (15) The obtaining by the purchaser of lawn care
10 service.

11 (16) The obtaining by the purchaser of self-storage
12 service.

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

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

20 (19) Except as otherwise provided under section 704:

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

29 (ii) Any service performed in this Commonwealth
30 shall be subject to the tax imposed under this chapter

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

5 (A) performed completely in this Commonwealth;

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

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

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

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

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

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

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

14 (q) (Reserved).

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

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

25 (t) "Transient vendor."

26 (1) Any person who:

27 (i) brings into this Commonwealth, by automobile,
28 truck or other means of transportation, or purchases in
29 this Commonwealth tangible personal property the sale or
30 use of which is subject to the tax imposed by this

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

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

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

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

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

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

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

1 services subject to tax under section 702.

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

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

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

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

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

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

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

1 health-related services, including nursing, home health care and
2 personal care. As used in this clause, "personal care" shall
3 include providing at least one of the following types of
4 assistance to persons with limited ability for self-care:

- 5 (1) dressing, bathing or feeding;
- 6 (2) supervising self-administered medication;
- 7 (3) transferring a person to or from a bed or
8 wheelchair; or
- 9 (4) routine housekeeping chores when provided in
10 conjunction with and supplied by the same provider of the
11 assistance listed in subclause (1), (2) or (3).

12 (dd) (Reserved).

13 (ee) (Reserved).

14 (ff) (Reserved).

15 (gg) (Reserved).

16 (hh) (Reserved).

17 (ii) (Reserved).

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

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

- 26 (1) safe deposit boxes by financial institutions;
- 27 (2) storage in refrigerator or freezer units;
- 28 (3) storage in commercial warehouses;
- 29 (4) facilities for goods distribution; and
- 30 (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 or pay-per-view basis; or

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

23 (mm) (Reserved).

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

29 (oo) "Construction contractor." A person who performs an
30 activity pursuant to a construction contract, including a

1 subcontractor.

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

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

9 (2) electrical;

10 (3) plumbing;

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

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

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

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

18 (8) laboratory system;

19 (9) cathodic protection system; or

20 (10) furniture, cabinetry and kitchen equipment.

21 The term includes boilers, chillers, air cleaners, humidifiers,
22 fans, switchgear, pumps, telephones, speakers, horns, motion
23 detectors, dampers, actuators, grills, registers, traffic
24 signals, sensors, card access devices, guardrails, medial
25 devices, floor troughs and grates and laundry equipment,
26 together with integral coverings and enclosures, regardless of
27 whether: the item constitutes a fixture or is otherwise affixed
28 to the real estate; damage would be done to the item or its
29 surroundings on removal; or the item is physically located
30 within a real estate structure. The term does not include

1 guardrail posts, pipes, fittings, pipe supports and hangers,
2 valves, underground tanks, wire, conduit, receptacle and
3 junction boxes, insulation, ductwork and coverings.

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

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

13 (2) the United States; or

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

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

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

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

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

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

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

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

30 (4) Mobile telecommunications services.

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

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

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

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

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

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

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

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

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

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

28 (yy) "Prebuilt housing sale." A sale of prebuilt housing to
29 a prebuilt housing purchaser, including a sale to a landlord,
30 without regard to whether the person making the sale is

1 responsible for installing the prebuilt housing or whether the
2 prebuilt housing becomes a real estate structure upon
3 installation. Temporary installation by a prebuilt housing
4 builder for display purposes of a unit held for resale shall not
5 be considered occupancy for residential purposes.

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

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

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

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

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

30 (1) where at least 150 employees are employed to

1 initiate or answer telephone calls;

2 (2) where there are at least 200 telephone lines; and

3 (3) which utilizes an automated call distribution system
4 for customer telephone calls in one or more of the following
5 activities:

6 (i) customer service and support;

7 (ii) technical assistance;

8 (iii) help desk service;

9 (iv) providing information;

10 (v) conducting surveys;

11 (vi) revenue collections; or

12 (vii) receiving orders or reservations.

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

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

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

27 (ggg) "Clothing." All vesture, wearing apparel, raiments,
28 garments, footwear and other articles of clothing, including
29 clothing patterns and items that are to be a component part of
30 clothing, worn or carried on or about the human body including,

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

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

9 (1) Soft drinks.

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

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

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

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

27 For purposes of this clause, a bakery, a pastry shop, a donut
28 shop, a delicatessen, a grocery store, a supermarket, a farmer's
29 market, a convenience store or a vending machine shall not be
30 considered an establishment from which food or beverages ready

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

8 SUBCHAPTER B

9 SALES AND USE TAX

10 Section 702. Imposition of tax.

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

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

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

28 (b) (Reserved).

29 (c) Telecommunications service.--

30 (1) Notwithstanding any other provisions of this

chapter, the tax with respect to telecommunications service within the meaning of "tangible personal property" in section 701 shall be computed at the rate of 6% on the total amount charged to customers for the services, irrespective of whether such charge is based on a flat rate or on a message unit charge.

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

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

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

(e) Prepaid telecommunications.--

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

(2) The sale or use of prepaid telecommunications not

1 evidenced by the transfer of tangible personal property shall
2 be subject to the tax imposed by subsection (a) and shall be
3 deemed to occur at the purchaser's billing address.

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

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

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

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

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

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

1 each sale.

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

6 (f) Prebuilt housing.--

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

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

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

23 (g) Home service providers.--

24 (1) Notwithstanding any other provisions of this chapter
25 and in accordance with the Mobile Telecommunications Sourcing
26 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or
27 use of mobile telecommunications services which are deemed to
28 be provided to a customer by a home service provider under 4
29 U.S.C. § 117 (relating to sourcing rules) shall be subject to
30 the tax of 6% of the purchase price, which tax shall be

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

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

10 Section 703. Computation of tax.

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

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

19 SUBCHAPTER C

20 EXCLUSIONS FROM SALES AND USE TAX

21 Section 704. Exclusions from tax.

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

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

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

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

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

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

29 (4) The sale at retail or use of disposable diapers;
30 premoistened wipes; incontinence products; colostomy

1 deodorants; toilet paper; sanitary napkins, tampons or
2 similar items used for feminine hygiene; or toothpaste,
3 toothbrushes or dental floss.

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

11 (6) (Reserved).

12 (7) (Reserved).

13 (8) (Reserved).

14 (9) (Reserved).

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

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

1 institution for routine maintenance and repairs.

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

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

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

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

20 (13) (Reserved).

21 (14) (Reserved).

22 (15) (Reserved).

23 (16) (Reserved).

24 (17) The sale at retail or use of prescription
25 medicines, drugs or medical supplies, crutches and
26 wheelchairs for the use of persons with disabilities and
27 invalids, artificial limbs, artificial eyes and artificial
28 hearing devices when designed to be worn on the person of the
29 purchaser or user, false teeth and materials used by a
30 dentist in dental treatment, eyeglasses when especially

1 designed or prescribed by an ophthalmologist, oculist or
2 optometrist for the personal use of the owner or purchaser
3 and artificial braces and supports designed solely for the
4 use of persons with disabilities or any other therapeutic,
5 prosthetic or artificial device designed for the use of a
6 particular individual to correct or alleviate a physical
7 incapacity, including, but not limited to, hospital beds,
8 iron lungs and kidney machines.

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

10 (19) (Reserved).

11 (20) (Reserved).

12 (21) (Reserved).

13 (22) (Reserved).

14 (23) (Reserved).

15 (24) (Reserved).

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

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

30 (27) (Reserved).

1 (28) (Reserved).

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

5 (i) soft drinks;

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

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

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

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

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

22 (31) (Reserved) .

23 (32) (Reserved) .

24 (33) (Reserved) .

25 (34) (Reserved) .

26 (35) (Reserved) .

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

29 (37) (Reserved) .

30 (38) (Reserved) .

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

4 (40) (Reserved).

5 (41) (Reserved).

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

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

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

13 (45) (Reserved).

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

17 (47) (Reserved).

18 (48) (Reserved).

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

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

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

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

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

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

29 (50) (Reserved).

30 (51) (Reserved).

1 (52) (Reserved) .

2 (53) (Reserved) .

3 (54) (Reserved) .

4 (55) (Reserved) .

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

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

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

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

18 (57) (Reserved) .

19 (58) (Reserved) .

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

24 (60) (Reserved) .

25 (61) (Reserved) .

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

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

3 (63) (Reserved).

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

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

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

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

1 such coins. The term does not include jewelry or works of art
2 made of coins, nor does it include commemorative medallions.

3 (66) (Reserved).

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

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

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

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

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

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

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

23 (74) The rental of real property.

24 (75) The sale at retail of tuition.

25 (76) The sale at retail of any of the following:

26 (i) Legal services.

27 (ii) Accounting, auditing and bookkeeping services.

28 (iii) Engineering services.

29 (iv) Research.

30 (v) Computer services and data processing.

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

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

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

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

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

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

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

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

29 Section 705. Alternate imposition of tax.

30 (a) General rule.--If any person actively and principally

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

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

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

19 Section 706. Credit against tax.

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

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

27 (2) No credit under paragraph (1) shall be granted
28 unless the other state grants substantially similar tax
29 relief by reason of the payment of tax under this chapter or
30 under the Tax Reform Code of 1971.

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

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

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

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

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

26 (5) The total amount of tax credits provided for in this
27 subsection and approved by the department shall not exceed
28 \$30,000,000 in any fiscal year. If the total amount of tax
29 credits applied for by all applicants exceeds the amount
30 allocated for those credits, then the credit to be received

by each applicant shall be determined as follows:

(i) Divide:

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

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

(ii) Multiply:

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

(B) the amount allocated for all tax credits.

SUBCHAPTER D

LICENSES

Section 708. Licenses.

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

(b) Criteria for issuance of license.--

(1) The department shall, after the receipt of an application, issue the license applied for under subsection (a) if the applicant filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan. The license shall be nonassignable.

(2) All licenses in effect on the effective date of this

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

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

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

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

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

23 (4) Notwithstanding section 774 or sections 353(f),
24 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of
25 1971, or any other provision of law to the contrary, if no
26 appeal is taken or if an appeal is taken and denied at the
27 conclusion of the appeal process, the department may
28 disclose, by publication or otherwise, the identity of a
29 person and the fact that the person's license has been
30 refused, suspended or revoked under this subsection.

1 Disclosure may include the basis for refusal, suspension or
2 revocation.

3 (c) Penalties.--

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

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

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

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

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

27 SUBCHAPTER E

28 HOTEL OCCUPANCY TAX

29 Section 709. Definitions.

30 (a) General rule.--The following words and phrases when used

1 in this subchapter shall have the meanings given to them in this
2 section unless the context clearly indicates otherwise:

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

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

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

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

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

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

27 (b) Other definitions.--The following words and phrases,
28 when used in Subchapters D and F, shall, in addition to the
29 meaning ascribed to them by section 701, have the meaning
30 ascribed to them in this subsection, except where the context

1 clearly indicates a different meaning:

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

3 Being the operator of a hotel in this Commonwealth.

4 "Purchase at retail." Occupancy.

5 "Purchase price." Rent.

6 "Purchaser." Occupant.

7 "Sale at retail." The providing of occupancy to an occupant
8 by an operator.

9 "Services." Occupancy.

10 "Tangible personal property." Occupancy.

11 "Use." Occupancy.

12 "Vendor." Operator.

13 Section 710. Imposition of tax.

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

19 Section 711. Seasonal tax returns.

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

27 SUBCHAPTER F

28 PROCEDURE AND ADMINISTRATION

29 Section 715. Persons required to make returns.

30 Every person required to pay tax to the department or collect

1 and remit tax to the department shall file returns with respect
2 to the tax.

3 Section 716. Form of returns.

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

8 Section 717. Time for filing returns.

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

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

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

30 (d) Waivers.--The department, by regulation, may waive the

1 requirement for the filing of quarterly return in the case of
2 any licensee whose individual tax collections do not exceed \$75
3 per calendar quarter and may provide for reporting on a less
4 frequent basis in such cases.

5 Section 718. Extension of time for filing returns.

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

11 Section 719. Place for filing returns.

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

15 Section 720. Timely mailing treated as timely filing and
16 payment.

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

26 (b) Presentation of receipt.--For the purposes of this
27 chapter, presentation of a receipt indicating that the report or
28 payment was mailed by registered or certified mail on or before
29 the due date shall be evidence of timely filing and payment.

30 Section 721. Payment of tax.

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

4 Section 722. Time of payment.

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

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

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

20 Section 723. Other times for payment.

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

24 Section 724. Place for payment.

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

27 Section 725. Tax held in trust for Commonwealth.

28 (a) General rule.--All taxes collected by any person from
29 purchasers in accordance with this chapter and all taxes
30 collected by any person from purchasers under color of this

chapter which have not been properly refunded by the person to the purchaser shall constitute a trust fund for the Commonwealth, and such trust shall be enforceable against such person, the person's representatives and any person, other than a purchaser to whom a refund has been made properly, receiving any part of the fund without consideration, or knowing that the taxpayer is committing a breach of trust.

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

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

Section 726. Local receivers of use tax.

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

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

Section 727. Discount.

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

8 Section 728. (Reserved).

9 Section 729. (Reserved).

10 Section 730. Assessment.

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

17 Section 731. Mode and time of assessment.

18 (a) Duty to examine.--

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

27 (2) If such assessment is not paid within ten days,
28 there shall be added and paid to the department an additional
29 3% of the difference for each month during which the
30 assessment remains unpaid. The total of all additions shall

1 not exceed 18% of the difference shown on the assessment.

2 (b) Underestimated tax on returns.--

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

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

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

14 (c) Estimated assessments.--

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

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

23 (d) Studies.--

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

29 (2) Any assessment based on such rates shall be prima
30 facie correct, except that the rate shall not be considered

1 where a taxpayer establishes the rate is based on a sample
2 inapplicable to the taxpayer.

3 Section 732. Reassessment.

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

7 Section 733. (Reserved).

8 Section 734. Review by Board of Finance and Revenue.

9 (a) Procedure.--

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

15 (2) The failure of the department to notify the
16 petitioner of a decision within the time provided by section
17 732 shall act as a denial of such petition, and a petition
18 for review may be filed with the Board of Finance and Revenue
19 within 120 days of the date prior to which the department
20 should have mailed to the petitioner its notice of decision.

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

28 (c) Action by board.--

29 (1) The Board of Finance and Revenue shall act finally
30 in disposing of petitions filed with it within six months

1 after they have been received.

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

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

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

12 Section 735. (Reserved).

13 Section 736. Burden of proof.

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

17 Section 737. Collection of tax.

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

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

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

30 (2) (i) Every person not otherwise required to collect

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

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

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

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

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

28 (2) Where the tangible personal property or service is
29 of a type which is never subject to the tax imposed or where
30 the sale or lease is in interstate commerce, the certificate

1 need not be furnished.

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

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

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

13 (6) An exemption certificate:

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

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

27 (iii) contains the organization's charitable
28 exemption number; and

29 (iv) which, in the case of any purchase costing \$200
30 or more, is accompanied by a sworn declaration on a form

1 to be provided by the department of an intended usage of
2 the property or service which would render it nontaxable,
3 shall be presumed to be taken in good faith and the burden of
4 proving otherwise shall be on the department.

5 (d) Waivers.--

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

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

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

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

24 (a) General rule.--Notwithstanding the provisions of section
25 737(b)(1), tax due on the sale at retail or use of a motor
26 vehicle, trailer or semitrailer, except mobile homes as defined
27 in 75 Pa.C.S (relating to vehicles), required by law to be
28 registered with the department under the provisions of 75
29 Pa.C.S. shall be paid by the purchaser or user directly to the
30 department on application to the department for an issuance of a

1 certificate of title on the motor vehicle, trailer or
2 semitrailer.

3 (b) No issuance of certificate of title without payment of
4 tax.--

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

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

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

18 Section 739. Precollection of tax.

19 (a) Authorization.--

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

26 (2) The department, pursuant to this section, may not
27 require a vendor to precollect tax from a purchaser who
28 purchases for resale more than \$1,000 worth of tangible
29 personal property from the vendor per year.

30 (b) No license required.--In any case in which a vendor has

1 been authorized to prepay the tax to the person from whom the
2 vendor purchased the tangible personal property for resale, the
3 vendor authorized to prepay the tax may, under the regulations
4 of the department, be relieved from the duty to secure a license
5 if the duty arises only by reason of the vendor's sale of the
6 tangible personal property with respect to which the vendor is,
7 under authorization of the department, to prepay the tax.

8 (c) Reimbursement.--

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

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

21 Section 740. Bulk and auction sales.

22 A person who sells or causes to be sold at auction, or who
23 sells or transfers in bulk, 51% or more of any stock, of goods,
24 wares or merchandise of any kind, fixtures, machinery,
25 equipment, buildings or real estate, involved in a business for
26 which the person is licensed or required to be licensed under
27 this chapter, or is liable for filing use tax returns in
28 accordance with this chapter, shall be subject to the provisions
29 of section 1403 of The Fiscal Code.

30 Section 741. Collection on failure to request reassessment,

1 review or appeal.

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

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

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

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

13 (4) In all cases of judicial sales, receiverships,
14 assignments or bankruptcies.

15 (b) Limitation on defenses.--

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

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

27 Section 742. Lien for taxes.

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

29 (1) If any person liable to pay any tax neglects or
30 refuses to pay the same after demand, the amount, including

1 any interest, addition or penalty, together with any costs
2 that may accrue in addition, shall be a lien in favor of the
3 Commonwealth on the property, both real and personal, of the
4 person but only after same has been entered and docketed of
5 record by the prothonotary of the county where the property
6 is situated.

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

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

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

17 (b) Priority status.--

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

28 (2) In the case of a judicial sale of property, subject
29 to a lien imposed under this section, on a lien or claim over
30 which the lien imposed under this section has priority, the

1 sale shall discharge the lien imposed under this section to
2 the extent only that the proceeds are applied to its payment,
3 and the lien shall continue in full force and effect as to
4 the balance remaining unpaid.

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

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

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

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

26 (c) Penalty.--Any willful failure of any prothonotary to
27 carry out any duty imposed on the prothonotary under this
28 section shall be a misdemeanor, and, upon conviction, the
29 prothonotary shall be sentenced to pay a fine not more than
30 \$1,000 and costs of prosecution or to a term of imprisonment not

1 exceeding one year, or both.

2 (d) Priority payment from distribution.--

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

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

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

24 Section 743. Suit for taxes.

25 (a) General rule.--At any time within three years after any
26 tax or any amount of tax shall be finally due and payable, the
27 department may commence an action in the courts of this
28 Commonwealth, of any state or of the United States, in the name
29 of the Commonwealth, to collect the amount of tax due together
30 with additions, interest, penalties and costs in the manner

1 provided at law or in equity for the collection of ordinary
2 debts.

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

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

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

19 Section 745. Service.

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

28 (b) Substitute service.--Where service cannot be made on the
29 person in the manner provided by other laws of this Commonwealth
30 relating to service of process, service may be made on the

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

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

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

17 Section 747. Prepayment of tax.

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

27 (b) Subsequent collection of tax.--If the purchase price is
28 thereafter collected, in whole or in part, the amount collected
29 shall be first applied to the payment of the entire tax portion
30 of the bill, and shall be remitted to the department by the

1 vendor with the first return filed after such collection.

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

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

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

10 (1) The purchaser fails to pay the vendor the total
11 purchase price.

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

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

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

20 (b) Limitation.--

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

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

28 (3) Payments made to a vendor on any transaction which
29 includes both taxable and nontaxable components shall be
30 allocated proportionally between the taxable and nontaxable

1 components.

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

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

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

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

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

24 (h) Administration.--

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

28 (2) No deduction or credit for bad debt may be taken on
29 any return filed with the department.

30 (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 department shall state that the transient vendor named in the certificate has registered with the department and shall provide

1 notice to the transient vendor that:

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

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

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

14 Section 748.1. Bond.

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

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

30 Section 748.2. Notification to department.

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

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

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

15 (1) fails to notify the department as required by
16 subsection (a);

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

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

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

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

25 Section 748.3. Seizure of property.

26 (a) General rule.--If a transient vendor conducting business
27 in this Commonwealth fails to exhibit a valid certificate on
28 demand by authorized employees of the department, those
29 authorized employees shall seize, without warrant, the tangible
30 personal property and the automobile, truck or other means of

1 transportation used to transport or carry that property. All
2 property seized shall be deemed contraband and shall be subject
3 to immediate forfeiture proceedings instituted by the department
4 pursuant to procedures adopted by regulation, except as
5 otherwise provided by this section.

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

8 (1) presentation of a valid certificate to authorized
9 employees of the department; or

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

14 Section 748.4. Fines.

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

20 Section 748.5. Transient vendors subject to chapter.

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

24 Section 748.6. Promoters.

25 (a) General rule.--A promoter of a show or shows in this
26 Commonwealth may annually file with the department an
27 application for a promoter's license stating the location and
28 dates of such show or shows. The application shall be filed at
29 least 30 days prior to the opening of the first show and shall
30 be in such form as the department may prescribe.

1 (b) License.--

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

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

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

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

23 (e) Penalties.--

24 (1) Any licensed promoter who:

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

28 (ii) fails to maintain records of a show as required
29 by law; or

30 (iii) knowingly maintains false records or fails to

1 comply with any provision contained in this section or
2 any regulation promulgated by the department pertaining
3 to shows,

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

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

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

14 Section 749. (Reserved).

15 Section 750. (Reserved).

16 Section 751. (Reserved).

17 Section 752. Refunds.

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

26 (b) Exception.--No refund shall be made under this section
27 with respect to any payment made by reason of an assessment with
28 respect to which a taxpayer has filed a petition for
29 reassessment pursuant to section 2702 of the Tax Reform Code of
30 1971 to the extent that the petition has been determined

adversely to the taxpayer by a decision which is no longer
subject to further review or appeal.

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

Section 753. Refund petition.

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

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

Section 754. (Reserved).

Section 755. (Reserved).

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

(a) General rule.--Any party to a transaction who has paid
tax by reason of a transaction with respect to which the

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

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

23 Section 757. (Reserved).

24 Section 758. Limitation on assessment and collection.

25 The amount of the tax imposed by this chapter or the Tax
26 Reform Code of 1971 shall be assessed within three years after
27 the date when the return provided for by section 717(a) or (c)
28 is filed or the end of the year in which the tax liability
29 arises, whichever occurs later. Any assessment may be made at
30 any time during the period notwithstanding that the department

1 may have made one or more previous assessments against the
2 taxpayer for the year in question, or for any part of the year.
3 In any case, no credit shall be given for any penalty previously
4 assessed or paid.

5 Section 759. Failure to file return.

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

9 Section 760. False or fraudulent return.

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

13 Section 761. Extension of limitation period.

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

22 Section 762. (Reserved).

23 Section 763. (Reserved).

24 Section 764. (Reserved).

25 Section 765. Interest.

26 If any amount of tax imposed by this chapter is not paid to
27 the department on or before the last date prescribed for
28 payment, interest on the amount at the rate of .75% per month
29 for each month, or fraction thereof, from the date, shall be
30 paid for the period from the last date to the date paid. The

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

6 Section 766. Additions to tax.

7 (a) Failure to file return.--In the case of failure to file
8 any return required by section 715 on the date prescribed for
9 the return, determined with regard to any extension of time for
10 filing, and, in the case in which a return filed understates the
11 true amount due by more than 50%, there shall be added to the
12 amount of tax actually due 5% of the amount of the tax if the
13 failure to file a proper return is for not more than one month,
14 with an additional 5% for each additional month, or fraction
15 thereof, during which such failure continues, not exceeding 25%
16 in the aggregate. In every case at least \$2 shall be added.

17 (b) Addition for understatement.--There shall be added to
18 every assessment under section 731(b) an addition equal to 5% of
19 the amount of the understatement and no addition to the tax
20 shall be paid under section 731(a).

21 (c) Interest.--If the department assesses a tax according to
22 section 731(a), (b) or (c), there shall be added to the amount
23 of the deficiency interest at the rate of .75% per month for
24 each month, or fraction thereof, from the date prescribed by
25 subsection (a) or section 722(c) for the payment of the tax to
26 the date of notice of the assessment.

27 Section 767. Penalties.

28 (a) General rule.--The penalties, additions, interest and
29 liabilities provided by this chapter shall be paid on notice and
30 demand by the department, and shall be assessed and collected in

1 the same manner as taxes. Except as otherwise provided, any
2 reference in this chapter to tax imposed by this chapter shall
3 be deemed also to refer to the penalties, additions, interest
4 and liabilities provided by this chapter.

5 (b) Monetary penalty.--Any person who willfully attempts, in
6 any manner, to evade or defeat the tax imposed by this chapter,
7 or the payment thereof, or to assist any other person to evade
8 or defeat the tax imposed by this chapter, or the payment
9 thereof, or to receive a refund improperly shall, in addition to
10 other penalties provided by law, be liable for a penalty equal
11 to one-half of the total amount of the tax evaded.

12 (c) Burden of proof.--In any direct proceeding arising out
13 of a petition for reassessment or refund as provided in this
14 chapter, in which an issue of fact is raised with respect to
15 whether a return is fraudulent or with respect to the propriety
16 of the imposition by the department of the penalty prescribed in
17 subsection (b), the burden of proof with respect to the issue
18 shall be on the department.

19 Section 768. Criminal offenses.

20 (a) False returns.--Any person who with intent to defraud
21 the Commonwealth willfully makes, or causes to be made, any
22 return required by this chapter which is false commits a
23 misdemeanor and, upon conviction, shall be sentenced to pay a
24 fine of not more than \$2,000 or to imprisonment not exceeding
25 three years, or both.

26 (b) Other offenses.--Except as otherwise provided by
27 subsection (a) and subject to the provisions of subsection (c),
28 any person who:

29 (1) advertises or holds out or states to the public or
30 to any purchaser or user, directly or indirectly, that the

1 tax or any part imposed by this chapter will be absorbed by
2 the person, or that it will not be added to the purchase
3 price of the tangible personal property or services described
4 in section 701(k)(2), (3), (4) and (11) through (18) sold or,
5 if added, that the tax or any part will be refunded, other
6 than when the person refunds the purchase price because of
7 the property being returned to the vendor;

8 (2) sells or leases tangible personal property or the
9 services, the sale or use of which by the purchaser is
10 subject to tax under this chapter, and willfully fails to
11 collect the tax from the purchaser and timely remit the same
12 to the department;

13 (3) willfully fails or neglects to timely file any
14 return or report required by this chapter or, as a taxpayer,
15 refuses to timely pay any tax, penalty or interest imposed or
16 provided for by this chapter, or willfully fails to preserve
17 the person's books, papers and records as directed by the
18 department;

19 (4) refuses to permit the department or any of its
20 authorized agents to examine the person's books, records or
21 papers, or who knowingly makes any incomplete, false or
22 fraudulent return or report;

23 (5) does or attempts to do anything to prevent the full
24 disclosure of the amount or character of taxable sales
25 purchases or use made by himself or any other person;

26 (6) provides any person with a false statement as to the
27 payment of tax with respect to particular tangible personal
28 property or services; or

29 (7) makes, utters or issues a false or fraudulent
30 exemption certificate;

1 commits a misdemeanor and, upon conviction shall be sentenced to
2 pay a fine of not more than \$1,000 and costs of prosecution or
3 to imprisonment for not more than one year, or both.

4 (c) Exceptions.--

5 (1) Any person who maintains a place of business outside
6 this Commonwealth may absorb the tax with respect to taxable
7 sales made in the normal course of business to customers
8 present at that place of business without being subject to
9 the penalty and fines.

10 (2) Advertising tax-included prices shall be
11 permissible, if the prepaid services are sold by the service
12 provider, for prepaid telecommunications services not
13 evidenced by the transfer of tangible personal property or
14 for prepaid mobile telecommunications services.

15 (d) Penalties are cumulative.--The penalties imposed by this
16 section shall be in addition to any other penalties imposed by
17 any provision of this chapter.

18 Section 769. Abatement of additions or penalties.

19 On the filing of a petition for reassessment or a petition
20 for refund as provided under this chapter by a taxpayer,
21 additions or penalties imposed on the taxpayer by this chapter
22 or the Tax Reform Code of 1971 may be waived or abated, in whole
23 or in part, where the petitioner has established that the
24 petitioner has acted in good faith, without negligence and with
25 no intent to defraud.

26 Section 770. Rules and regulations.

27 (a) General rule.--The department shall enforce the
28 provisions of this chapter and shall prescribe, adopt,
29 promulgate and enforce rules and regulations not inconsistent
30 with the provisions of this chapter, relating to any matter or

1 thing pertaining to the administration and enforcement of the
2 provisions of this chapter, and the collection of taxes,
3 penalties and interest imposed by this chapter. The department
4 may prescribe the extent, if any, to which any of the rules and
5 regulations shall be applied without retroactive effect.

6 (b) Determination of purchase price.--

7 (1) In determining the purchase price of taxable sales
8 where, because of affiliation of interests between the vendor
9 and the purchaser or irrespective of any such affiliation, if
10 for any other reason, the purchase price of the sale is in
11 the opinion of the department not indicative of the true
12 value of the article or the fair price of the article, the
13 department shall, pursuant to uniform and equitable rules,
14 determine the amount of constructive purchase price on the
15 basis of which the tax shall be computed and levied.

16 (2) The rules shall provide for a constructive amount of
17 a purchase price for each sale, which price shall equal a
18 price for the article which would naturally and fairly be
19 charged in an arm's-length transaction in which the element
20 of common interests between vendor and purchaser or, if no
21 common interest exists, any other element causing a
22 distortion of the price or value is absent.

23 (3) For the purpose of this chapter where a taxable sale
24 occurs between a parent corporation and a subsidiary
25 affiliate or controlled corporation of such parent, there
26 shall be a rebuttable presumption that because of such common
27 interest the transaction was not at arm's-length.

28 Section 771. Keeping of records.

29 (a) Persons liable for taxes.--Every person liable for any
30 tax imposed by this chapter, or for the collection of the tax,

1 shall keep the records, render such statements, make the returns
2 and comply with the rules and regulations as the department may,
3 from time to time, prescribe regarding matters pertinent to the
4 person's business. Whenever in the judgment of the department it
5 is necessary, it may require any person, by notice served on the
6 person, or by regulations, to make the returns, render the
7 statements or keep the records as the department deems
8 sufficient to show whether the person is liable to pay or
9 collect tax under this chapter.

10 (b) Persons collecting taxes.--Any person liable to collect
11 tax from another person under the provisions of this chapter
12 shall file reports, keep records, make payments and be subject
13 to interest and penalties as provided for under this chapter, in
14 the same manner as if the person were directly subject to the
15 tax.

16 (c) Nonresidents.--

17 (1) A nonresident who does business in this Commonwealth
18 as a retail dealer shall keep adequate records of the
19 business and of the tax due with respect to the business,
20 which records shall at all times be retained within this
21 Commonwealth unless retention outside this Commonwealth is
22 authorized by the department.

23 (2) No taxes collected from purchasers shall be sent
24 outside this Commonwealth without the written consent of and
25 in accordance with conditions prescribed by the department.

26 (3) The department may require a taxpayer who desires to
27 retain records or tax collections outside this Commonwealth
28 to assume reasonable out-of-State audit expenses.

29 (d) Retail dealers.--

30 (1) Any person doing business as a retail dealer who at

1 the same time is engaged in another business which does not
2 involve the making of sales taxable under this chapter shall
3 keep separate books and records of the person's businesses so
4 as to show the sales taxable under this chapter separately
5 from the sales not taxable under this chapter.

6 (2) If the person fails to keep such separate books and
7 records, the person shall be liable for tax at the rate
8 designated in section 702 on the entire purchase price of
9 sales from both or all of the person's businesses.

10 (e) Segregation of taxes required.--

11 (1) In those instances where a vendor gives no sales
12 memoranda or uses registers showing only total sales, the
13 vendor shall adopt some method of segregating tax from sales
14 receipts and keep records showing the segregation, all in
15 accordance with proper accounting and business practices.

16 (2) A vendor may apply to the department for permission
17 to use a collection and recording procedure which will show
18 the information as the law requires with reasonable accuracy
19 and simplicity. The application must contain a detailed
20 description of the procedure to be adopted.

21 (3) Permission to use the proposed procedure is not to
22 be construed as relieving the vendor from remitting the full
23 amount of tax collected.

24 (4) The department may revoke the permission on 30 days'
25 notice to the vendor.

26 (5) Refusal of the department to grant permission in
27 advance to use the procedure shall not be construed to
28 invalidate a procedure which on examination shows the
29 information as the law requires.

30 Section 771.1. Reports and records of promoters.

1 Every licensed promoter shall keep a record of the date and
2 place of each show and the name, address, sales, use and hotel
3 occupancy license number of every person whom the licensed
4 promoter permits to display for sale or to sell tangible
5 personal property or services subject to tax under section 702
6 at the show. The records shall be open for inspection and
7 examination at any reasonable time by the department or a duly
8 authorized representative, and the records shall, unless the
9 department consents in writing to an earlier destruction, be
10 preserved for three years after the date the report was filed or
11 the date it was due, whichever occurs later, except that the
12 department may by regulation require that they be kept for a
13 longer period of time.

14 Section 772. Examinations.

15 (a) Power of department.--The department or any of its
16 authorized agents may examine the books, papers and records of
17 any taxpayer in order to verify the accuracy and completeness of
18 any return made or if no return was made, to ascertain and
19 assess the tax imposed by this chapter. The department may
20 require the preservation of all such books, papers and records
21 for any period deemed proper by it but not to exceed three years
22 from the end of the calendar year to which the records relate.

23 (b) Duty of taxpayers.--Every taxpayer shall give to the
24 department, or its agent, the means, facilities and opportunity
25 for the examinations and investigation.

26 (c) Other powers of department.--

27 (1) The department is further authorized to examine any
28 person, under oath, concerning taxable sales or use by any
29 taxpayer or concerning any other matter relating to the
30 enforcement or administration of this chapter, and to this

1 end may compel the production of books, papers and records
2 and the attendance of all persons whether as parties or
3 witnesses whom it believes to have knowledge of such matters.

4 (2) The procedure for such hearings or examinations
5 shall be the same as that provided by the act of April 9,
6 1929 (P.L.343, No.176), known as The Fiscal Code, relating to
7 inquisitorial powers of fiscal officers.

8 Section 773. Records and examinations of delivery agents.

9 Every agent for the purpose of delivery of goods shipped into
10 this Commonwealth by a nonresident, including, but not limited
11 to, a common carrier, shall maintain adequate records of such
12 deliveries pursuant to rules and regulations adopted by the
13 department and shall make the records available to the
14 department upon request after due notice.

15 Section 774. Unauthorized disclosure.

16 Any information gained by the department as a result of any
17 return, examination, investigation, hearing or verification
18 required or authorized by this chapter shall be confidential,
19 except for official purposes and except in accordance with
20 proper judicial order or as otherwise provided by law, and any
21 person unlawfully divulging such information commits a
22 misdemeanor and, upon conviction, shall be sentenced to pay a
23 fine of not more than \$1,000 and costs of prosecution or to
24 imprisonment for not more than one year, or both.

25 Section 775. Cooperation with other governments.

26 Notwithstanding the provisions of section 774, the department
27 may permit the Commissioner of Internal Revenue of the United
28 States, or the proper officer of any state, or the authorized
29 representative of either such officer, to inspect the tax
30 returns of any taxpayer, or may furnish to the officer or to the

1 officer's authorized representative an abstract of the return of
2 any taxpayer, or supply the officer or the authorized
3 representative with information concerning any item contained in
4 any return or disclosed by the report of any examination or
5 investigation of the return of any taxpayer. This permission
6 shall be granted only if the statutes of the United States or of
7 such other state, as the case may be, grant substantially
8 similar privileges to the proper officer of the Commonwealth
9 charged with the administration of this chapter.

10 Section 776. Interstate compacts.

11 (a) General rule.--The Governor, or the Governor's
12 authorized representative, may confer with the Governor and the
13 authorized representatives of other states with respect to
14 reciprocal use tax collection between the Commonwealth and such
15 other states.

16 (b) Other powers.--The Governor, or the Governor's
17 authorized representative, may join with the authorities of
18 other states to conduct joint investigations, to exchange
19 information, hold joint hearings and enter into compacts or
20 interstate agreements with such other states to accomplish
21 uniform reciprocal use tax collections between those states who
22 are parties to any compact or interstate agreement and the
23 Commonwealth.

24 Section 777. Bonds.

25 (a) Procedure.--

26 (1) Whenever the department, in its discretion, deems it
27 necessary to protect the revenues to be obtained under the
28 provisions of this chapter, it may require any nonresident
29 natural person or any foreign corporation, association,
30 fiduciary, partnership or other entity, not authorized to do

1 in this Commonwealth or not having an established place of
2 business in this Commonwealth and subject to the tax imposed
3 by section 702, to file a bond issued by a surety company
4 authorized to do business in this Commonwealth and approved
5 by the Insurance Commissioner as to solvency and
6 responsibility, in such amounts as it may fix, to secure the
7 payment of any tax or penalties due, or which may become due,
8 from a natural person or corporation.

9 (2) In order to protect the revenues to be obtained
10 under the provisions of this chapter, the department shall
11 require any nonresident natural person or any foreign
12 corporation, association, fiduciary, partnership or entity,
13 who or which is a building contractor, or who or which is a
14 supplier delivering building materials for work in this
15 Commonwealth and is not authorized to do business in this
16 Commonwealth or does not have an established place of
17 business in this Commonwealth and is subject to the tax
18 imposed by section 702, to file a bond issued by a surety
19 company authorized to do business in this Commonwealth and
20 approved by the Insurance Commissioner as to solvency and
21 responsibility, in the amounts as it may fix, to secure the
22 payments of any tax or penalties due, or which may become
23 due, from a natural person, corporation or other entity.

24 (3) The department may also require a bond of any person
25 petitioning the department for reassessment, in the case of
26 any assessment over \$500 or where it is of the opinion that
27 the ultimate collection is in jeopardy.

28 (4) (i) The department may, for a period of three
29 years, require a bond of any person who has on three or
30 more occasions within a 12-month period either filed a

1 return or made payment to the department more than 30
2 days late.

3 (ii) If the department determines that a taxpayer is
4 to file a bond, the department shall give notice to the
5 taxpayer to that effect, specifying the amount of the
6 bond required.

7 (iii) The taxpayer shall file a bond within five
8 days after the giving of the notice by the department
9 unless, within the five-day period, the taxpayer requests
10 in writing a hearing before the secretary or the
11 secretary's representative at which hearing the
12 necessity, propriety and amount of the bond shall be
13 determined by the secretary or a representative. The
14 determination shall be final and shall be complied within
15 15 days after notice is mailed to the taxpayer.

16 (b) Alternative security.--

17 (1) In lieu of the bond required by this section,
18 securities approved by the department, or cash in the amount
19 as it may prescribe, may be deposited.

20 (2) Such securities or cash shall be kept in the custody
21 of the department, who may, at any time, without notice to
22 the depositor, apply them to any tax and/or interest or
23 penalties due, and for that purpose the securities may be
24 sold by the department, at public or private sale, on five
25 days' written notice to the depositor.

26 (c) Lien may be filed.--

27 (1) The department may file a lien pursuant to section
28 742 against any taxpayer who fails to file a bond when
29 required to do so under this section.

30 (2) All funds received on execution of the judgment on

1 the lien shall be refunded to the taxpayer with 3% interest
2 should a final determination be made that the taxpayer does
3 not owe any payment to the department.

4 SUBCHAPTER G

5 FUNDING PROVISIONS

6 Section 780. (Reserved).

7 Section 781. Appropriation for refunds.

8 So much of the proceeds of the tax imposed by this chapter as
9 shall be necessary for the payment of refunds, enforcement or
10 administration under this chapter is hereby appropriated for
11 those purposes.

12 Section 781.1. Construction.

13 To the extent that the language of this chapter is identical
14 to that of equivalent provisions in the former act of March 6,
15 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for
16 Education, or Article II of the Tax Reform Code of 1971, that
17 language shall be deemed a reenactment of such identical
18 provisions.

19 Section 781.2. Transfers to Public Transportation Reserve Fund.

20 (a) Establishment of fund.--The amount of additional
21 revenues that are generated by taxes received under this chapter
22 that are necessary to replace the revenue earmarked for
23 transportation under 74 Pa.C.S. § 1506 (relating to fund), not
24 to exceed 4.4% of such additional revenues, shall be deposited
25 in the Public Transportation Reserve Fund which is hereby
26 established in the State Treasury and shall be disbursed as
27 provided under an act of the General Assembly enacted after the
28 effective date of this section.

29 (b) Time period for transfers.--Within 30 days of the close
30 of a calendar month, 1.01% of the taxes and other sums specified

1 in subsection (a) received in the prior calendar month shall be
2 transferred to the Public Transportation Reserve Fund.

3 Section 782. Transfers to Education Operating Fund.

4 (a) Legislative intent.--It is the intent of the General
5 Assembly to broaden the sales and use tax base in order to
6 provide funds for the operating expenses of school districts and
7 as a means to abolish the school property tax.

8 (b) Source of funding for transfers.--Except as otherwise
9 provided under section 781.2, all revenues received on or after
10 January 1, 2011, from the tax imposed by this chapter shall be
11 transferred to the Education Operating Fund.

12 CHAPTER 9

13 SENIOR CITIZENS PROPERTY TAX AND

14 RENT REBATE ASSISTANCE

15 Section 901. Scope of chapter.

16 This chapter provides senior citizens with assistance in the
17 form of property tax and rent rebates.

18 Section 902. (Reserved).

19 Section 903. Definitions.

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

23 "Board." The Board of Finance and Revenue of the
24 Commonwealth.

25 "Claimant." A person who files a claim for property tax
26 rebate or rent rebate in lieu of property taxes and:

27 (1) was at least 65 years of age or whose spouse, if a
28 member of the household, was at least 65 years of age during
29 a calendar year in which real property taxes, rent and
30 inflation costs were due and payable;

1 (2) was a widow or widower and was at least 50 years of
2 age during a calendar year or part thereof in which real
3 property taxes, rent and inflation costs were due and
4 payable; or

5 (3) was a permanently disabled person 18 years of age or
6 older during a calendar year or part thereof in which the
7 real property taxes, rent and inflation costs were due and
8 payable.

9 "Homestead." A dwelling, whether owned or rented, and so
10 much of the land surrounding it, as is reasonably necessary for
11 the use of the dwelling as a home, occupied by a claimant. The
12 term includes, but is not limited to:

13 (1) Premises occupied by reason of ownership or lease in
14 a cooperative housing corporation.

15 (2) A mobile home which is assessed as realty for local
16 property tax purposes and the land, if owned or rented by the
17 claimant, upon which the mobile home is situated, and any
18 other similar living accommodation.

19 (3) A part of a multidwelling or multipurpose building
20 and a part of the land upon which it is built.

21 (4) Premises occupied by reason of the claimant's
22 ownership or rental of a dwelling located on land owned by a
23 nonprofit incorporated association, of which the claimant is
24 a member, if the claimant is required to pay a pro rata share
25 of the property taxes levied against the association's land.

26 (5) Premises occupied by a claimant if the claimant is
27 required by law to pay a property tax by reason of the
28 claimant's ownership or rental, including a possessory
29 interest, in the dwelling, the land or both. An owner
30 includes a person in possession under a contract of sale,

1 deed of trust, life estate, joint tenancy or tenancy in
2 common or by reason of statutes of descent and distribution.

3 "Household income." All income received by a claimant and
4 the claimant's spouse while residing in their homestead during
5 the calendar year for which a rebate is claimed.

6 "Income." All income from whatever source derived,
7 including, but not limited to:

8 (1) Salaries, wages, bonuses, commissions, income from
9 self-employment, alimony, support money, cash public
10 assistance and relief.

11 (2) The gross amount of any pensions or annuities,
12 including railroad retirement benefits for calendar years
13 prior to 1999 and 50% of railroad retirement benefits for
14 calendar years 1999 and thereafter.

15 (3) All benefits received under the Social Security Act
16 (49 Stat. 620, 42 U.S.C. § 301 et seq.), except Medicare
17 benefits, for calendar years prior to 1999, and 50% of all
18 benefits received under the Social Security Act, except
19 Medicare benefits, for calendar years 1999 and thereafter.

20 (4) All benefits received under State unemployment
21 insurance laws and veterans' disability payments.

22 (5) All interest received from the Federal or any state
23 government or any instrumentality or political subdivision
24 thereof.

25 (6) Realized capital gains and rentals.

26 (7) Workers' compensation.

27 (8) The gross amount of loss of time insurance benefits,
28 life insurance benefits and proceeds, except the first \$5,000
29 of the total of death benefit payments.

30 (9) Gifts of cash or property, other than transfers by

1 gift between members of a household, in excess of a total
2 value of \$300.

3 The term does not include surplus food or other relief in kind
4 supplied by a governmental agency, property tax or rent rebate
5 or inflation dividend.

6 "Inflation costs." The additional costs of those essential
7 consumer needs of senior citizens in this Commonwealth. The term
8 includes, but is not limited to, the additional cost of medical
9 prescriptions, energy needs, transportation and food and
10 clothing essentials.

11 "Permanently disabled person." A person who is unable to
12 engage in any substantial gainful activity by reason of any
13 medically determinable physical or mental impairment which can
14 be expected to continue indefinitely, except as provided in
15 section 904(b) (3) and (c).

16 "Real property taxes." All taxes on a homestead, exclusive
17 of municipal assessments, delinquent charges and interest, due
18 and payable during a calendar year.

19 "Rent rebate in lieu of property taxes." Twenty percent of
20 the gross amount actually paid in cash or its equivalent in any
21 calendar year to a landlord in connection with the occupancy of
22 a homestead by a claimant, irrespective of whether such amount
23 constitutes payment solely for the right of occupancy or
24 otherwise.

25 "Widow" or "widower." The surviving wife or the surviving
26 husband, as the case may be, of a deceased individual and who
27 has not remarried except as provided in section 904(b) (3) and
28 (c).

29 Section 904. Property tax, rent rebate and inflation cost.

30 (a) Schedule of rebates.--

(1) The amount of any claim for property tax rebate or rent rebate in lieu of property taxes for real property taxes or rent due and payable during calendar years 1985 and thereafter shall be determined in accordance with the following schedule:

Percentage of Real Property
Taxes or Rent Rebate in Lieu of
Property Taxes Allowed as

Household Income	Rebate
\$ 0 - \$4,999	100%
5,000 - 5,499	100
5,500 - 5,999	90
6,000 - 6,499	80
6,500 - 6,999	70
7,000 - 7,499	60
7,500 - 7,999	50
8,000 - 8,499	40
8,500 - 8,999	35
9,000 - 9,999	25
10,000 - 11,999	20
12,000 - 12,999	15
13,000 - 15,000	10

(2) To all claimants eligible for a property tax or rent rebate pursuant to paragraph (1), there shall be paid an inflation dividend determined in accordance with the following schedule:

Household Income	Dividend
\$ 0 - \$4,999	\$125
5,000 - 5,499	100
5,500 - 5,999	100

1	6,000 - 6,499	75
2	6,500 - 6,999	75
3	7,000 - 7,499	60
4	7,500 - 7,999	60
5	8,000 - 8,499	45
6	8,500 - 8,999	45
7	9,000 - 9,999	30
8	10,000 - 11,999	30
9	12,000 - 12,999	30
10	13,000 - 15,000	20

11 (b) Limitations on claims.--

12 (1) No claim shall be allowed if the amount of property
 13 tax or rent rebate computed in accordance with this section
 14 is less than \$10, and the maximum amount of property tax or
 15 rent rebate payable shall not exceed \$500.

16 (2) No claim shall be allowed if the claimant is a
 17 tenant of an owner of real property exempt from real property
 18 taxes.

19 (c) Apportionment and public assistance.--

20 (1) If any of the following exist relating to a claim:

21 (i) a homestead is owned or rented and occupied for
 22 only a portion of a year or is owned or rented in part by
 23 a person who does not meet the qualifications for a
 24 claimant, exclusive of any interest owned or leased by a
 25 claimant's spouse;

26 (ii) the claimant is a widow or widower who
 27 remarries; or

28 (iii) the claimant is a formerly disabled person who
 29 is no longer disabled,

30 the department shall apportion the real property taxes or

1 rent in accordance with the period or degree of ownership or
2 leasehold or eligibility of the claimant in determining the
3 amount of rebate for which a claimant is eligible.

4 (2) A claimant who receives public assistance from the
5 Department of Public Welfare shall not be eligible for rent
6 rebate in lieu of property taxes or an inflation dividend
7 during those months within which the claimant receives public
8 assistance.

9 (d) Government subsidies.--Rent shall not include subsidies
10 provided by or through a governmental agency.

11 Section 905. Filing of claim.

12 (a) General rule.--Except as otherwise provided in
13 subsection (b), a claim for property tax or rent rebate shall be
14 filed with the department on or before the 30th day of June of
15 the year next succeeding the end of the calendar year in which
16 real property taxes or rent was due and payable.

17 (b) Exception.--A claim filed after the June 30 deadline
18 until December 31 of such calendar year shall be accepted by the
19 secretary as long as funds are available to pay the benefits to
20 the late filing claimant.

21 (c) Payments from State Lottery Fund.--No reimbursement on a
22 claim shall be made from the State Lottery Fund earlier than the
23 day following the 30th day of June provided in this chapter on
24 which that claim may be filed with the department.

25 (d) Eligibility of claimants.--

26 (1) Only one claimant from a homestead each year shall
27 be entitled to the property tax or rent rebate.

28 (2) If two or more persons are able to meet the
29 qualifications for a claimant, they may determine who the
30 claimant shall be.

(3) If they are unable to agree, the department shall determine to whom the rebate is to be paid.

Section 906. Proof of claim.

(a) Contents.--Each claim shall include:

(1) Reasonable proof of household income.

(2) The size and nature of the property claimed as a homestead.

(3) The rent, tax receipt or other proof that the real property taxes on the homestead have been paid or rent in connection with the occupancy of a homestead has been paid.

(4) If the claimant is a widow or widower, a declaration of such status in such manner as prescribed by the secretary.

(b) Proof of disability.--

(1) Proof that a claimant is eligible to receive disability benefits under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) shall constitute proof of disability under this chapter.

(2) No person who has been found not to be disabled by the Social Security Administration shall be granted a rebate under this chapter.

(3) A claimant not covered under the Social Security Act shall be examined by a physician designated by the department and such status determined using the same standards used by the Social Security Administration.

(c) Direct payment of taxes or rent not required.--It shall not be necessary that such taxes or rent were paid directly by the claimant if the rent or taxes have been paid when the claim is filed.

(d) Proof of age on first claim.--The first claim filed shall include proof that the claimant or the claimant's spouse

1 was at least 65 years of age, or at least 50 years of age in the
2 case of a widow or widower during the calendar year in which
3 real property taxes or rent were due and payable.

4 Section 907. Incorrect claim.

5 Whenever on audit of a claim the department finds the claim
6 to have been incorrectly determined, it shall redetermine the
7 correct amount of the claim and notify the claimant of the
8 reason for the redetermination and the amount of the corrected
9 claim.

10 Section 908. Funds for payment of claims.

11 (a) Payment.--Approved claims shall be paid from the State
12 Lottery Fund established by the act of August 26, 1971 (P.L.351,
13 No.91), known as the State Lottery Law.

14 (b) Minimum funding level.--Not less than the percentage of
15 the State Lottery Fund expended in the fiscal year beginning
16 July 1, 2007, for the provision of property tax relief and rent
17 rebate in lieu of property taxes shall be transferred from the
18 State Lottery Fund each year into a restricted account within
19 the State Lottery Fund, which account is hereby established and
20 shall be known as the Property Tax and Rent Rebate Restricted
21 Account. The moneys of the account shall be expended for the
22 sole purpose of providing property tax relief and rent rebates
23 in lieu of property taxes as provided by law.

24 (c) Restrictions on use of Gaming Fund.--No moneys in the
25 Gaming Fund shall be transferred to the State Lottery Fund or
26 otherwise used for the purposes of this chapter.

27 Section 909. Claim forms and rules and regulations.

28 Necessary rules and regulations shall be prescribed by a
29 committee consisting of the Secretary of Aging, the Secretary of
30 Revenue and the Secretary of Community and Economic Development.

1 The Secretary of Aging shall serve as the chairman of the
2 committee. The department shall receive all applications,
3 determine the eligibility of claimants, hear appeals, disburse
4 payments and make available suitable forms for the filing of
5 claims.

6 Section 910. Fraudulent claims and conveyances to obtain
7 benefits.

8 (a) Civil penalty.--In any case in which a claim is
9 excessive and was filed with fraudulent intent, the claim shall
10 be disallowed in full, and a penalty of 25% of the amount
11 claimed shall be imposed. The penalty and the amount of the
12 disallowed claim, if the claim has been paid, shall bear
13 interest at the rate of 1.5% per month from the date of the
14 claim until repaid.

15 (b) Criminal penalty.--The claimant and any person who
16 assisted in the preparation or filing of a fraudulent claim
17 commits a misdemeanor of the third degree and, upon conviction
18 thereof, shall be sentenced to pay a fine not exceeding \$1,000
19 or to imprisonment not exceeding one year, or both.

20 (c) Disallowance for receipt of title.--A claim shall be
21 disallowed if the claimant received title to the homestead
22 primarily for the purpose of receiving property tax rebate.

23 Section 911. Petition for redetermination.

24 (a) Right to file.--A claimant whose claim is either denied,
25 corrected or otherwise adversely affected by the department may
26 file with the department a petition for redetermination on forms
27 supplied by the department within 90 days after the date of
28 mailing of written notice by the department of such action.

29 (b) Contents.--The petition shall set forth the grounds upon
30 which the claimant alleges that such departmental action is

1 erroneous or unlawful, in whole or part, and shall contain an
2 affidavit or affirmation that the facts contained in the
3 petition are true and correct.

4 (c) Extension of time for filing.--

5 (1) An extension of time for filing the petition may be
6 allowed for cause but may not exceed 120 days.

7 (2) The department shall hold such hearings as may be
8 necessary for the purpose of redetermination, and each
9 claimant who has duly filed such petition for redetermination
10 shall be notified by the department of the time when and the
11 place where such hearing in the claimant's case will be held.

12 (d) Time period for decision.--The department shall, within
13 six months after receiving a filed petition for redetermination,
14 dispose of the matters raised by such petition and shall mail
15 notice of the department's decision to the claimant.

16 Section 912. Review by Board of Finance and Revenue.

17 (a) Right to review.--Within 90 days after the date of
18 official receipt by the claimant of notice mailed by the
19 department of its decision on a petition for redetermination
20 filed with it, the claimant who is adversely affected by the
21 decision may by petition request the board to review such
22 action.

23 (b) Effect of no decision from department.--The failure of
24 the department to officially notify the claimant of a decision
25 within the six-month period provided for by section 911 shall
26 act as a denial of the petition, and a petition for review may
27 be filed with the board within 120 days after written notice is
28 officially received by the claimant that the department has
29 failed to dispose of the petition within the six-month period.

30 (c) Contents of petition for redetermination.--A petition

1 for redetermination filed under this section shall state the
2 reasons upon which the claimant relies or shall incorporate by
3 reference the petition for redetermination in which such reasons
4 were stated. The petition shall be supported by affidavit that
5 the facts set forth therein are correct and true.

6 (d) Time period for decision.--The board shall act in
7 disposition of petitions filed with it within six months after
8 they have been received, and, in the event of failure of the
9 board to dispose of any petition within six months, the action
10 taken by the department upon the petition for redetermination
11 shall be deemed sustained.

12 (e) Relief authorized by board.--The board may sustain the
13 action taken by the department on the petition for
14 redetermination or it may take such other action as it shall
15 deem necessary and consistent with provisions of this chapter.

16 (f) Form of notice.--Notice of the action of the board shall
17 be given by mail to the department and to the claimant.

18 Section 913. Appeal.

19 A claimant aggrieved by a decision of the board may appeal
20 from the decision of the board in the manner provided by law for
21 appeals from decisions of the board in tax cases.

22 CHAPTER 11

23 LIMITATIONS ON

24 SCHOOL DISTRICT TAXATION

25 Section 1101. Authority to levy taxes and effect of future
26 Constitutional amendment.

27 (a) Abrogating authority to impose certain taxes.--

28 (1) The authority of any school district to levy, assess
29 and collect any real property tax under the Public School
30 Code of 1949, or any other act shall expire in accordance

1 with the schedule set forth under section 1102, at midnight
2 December 31, 2010.

3 (2) The authority of a school district to impose or
4 continue any tax adopted pursuant to the Local Tax Enabling
5 Act or a school per capita tax pursuant to the Public School
6 Code of 1949 or to impose or continue any other tax not
7 authorized under this act shall expire at midnight on
8 December 31, 2011.

9 (3) The authority of a city of the first class to impose
10 or continue to provide for the imposition or continuation of
11 any tax, including, but not limited to, the real property
12 tax, for the use of a school district of the first class that
13 is not specifically authorized under this act shall expire in
14 accordance with the schedule set forth under section 1102(b).

15 (4) No school district shall have the authority to
16 increase any real property tax on commercial property under
17 the Public School Code of 1949 or any other act after the
18 effective date of this section.

19 (b) Collection of certain taxes unaffected.--The provisions
20 of this section or any other provision of this act shall not
21 prevent or interfere with any action of any school district to
22 collect any tax owed by any taxpayer prior to the repeal of any
23 law authorizing such tax after such law is repealed pursuant to
24 this act.

25 (c) Limitations on adoption of personal income taxes
26 authorized under Chapter 3 and earned income taxes authorized
27 under Chapter 5.--A school district that adopts a personal
28 income tax pursuant to Chapter 3 may not adopt an earned income
29 tax under Chapter 5. A school district that adopts an earned
30 income tax under Chapter 5 may not adopt a personal income tax

1 under Chapter 3.

2 Section 1102. Transitional taxes.

3 (a) Transitional taxes for school districts other than
4 school districts of the first class.--Notwithstanding any other
5 provision of the Public School Code of 1949 or any other law to
6 the contrary:

7 (1) Any school district, other than a school district of
8 the first class, may continue to levy, assess and collect a
9 real property tax for the fiscal years 2011-2012, 2012-2013
10 and 2013-2014 and, on commercial property, only for fiscal
11 year 2009-2010, subject to the limitations set forth in
12 paragraphs (2), (3), (4) and (5), and may continue to levy,
13 assess and collect taxes, other than realty transfer taxes,
14 pursuant to the Local Tax Enabling Act and the school per
15 capita tax until midnight on December 31, 2011.

16 (2) For fiscal year 2011-2012, the rate of real property
17 tax shall be calculated to generate 75% of the revenue
18 generated by the real property tax on residential property
19 for the 2009-2010 fiscal year.

20 (3) For fiscal year 2012-2013, the rate of the real
21 property tax shall be calculated to generate 50% of the
22 revenue generated by the real property tax on residential
23 property for the 2009-2010 fiscal year.

24 (4) For fiscal year 2013-2014, the rate of the real
25 property tax shall be calculated to generate 25% of the
26 revenue generated by the real property tax on residential
27 property for the 2009-2010 fiscal year.

28 (5) For all fiscal years beginning after June 30, 2014,
29 no school district shall have any power or authority to levy,
30 assess and collect any real property tax on residential

property.

(b) Transitional taxes for school districts of the first class.--Notwithstanding any other provision of the Public School Code of 1949 or any other law to the contrary:

(1) Subject to the provisions set forth in paragraphs (2), (3) and (4), any school district of the first class and city of the first class may continue to levy, assess and collect a real property tax and all other taxes in existence on July 31, 2010, at the rates in effect on that date as reduced in accordance with this subsection, for the use of a coterminous school district of the first class for fiscal years 2011-2012, 2012-2013 and 2013-2014 and, on residential property, only for fiscal year 2014-2015 and thereafter. The authority to levy, assess and collect such taxes for the use of coterminous school districts shall expire at midnight on December 31, 2014.

(2) For fiscal year 2011-2012, all taxes identified under paragraph (1) shall be calculated to generate 75% of the revenue generated by all such taxes on residential property for the 2009-2010 fiscal year.

(3) For fiscal year 2012-2013, all taxes identified under paragraph (1) shall be calculated to generate 50% of the revenue generated by those taxes on residential property for the 2009-2010 fiscal year.

(4) For fiscal year 2013-2014, all taxes identified under paragraph (1) shall be calculated to generate 25% of the revenue generated by those taxes on residential property for the 2009-2010 fiscal year.

(5) For all fiscal years beginning after June 30, 2014, no city of the first class shall have any power or authority

1 to levy, assess and collect any of the taxes identified under
2 paragraph (1) for school purposes, except for a real property
3 tax on commercial property.

4 Section 1103. Consideration of State appropriations or
5 reimbursements.

6 The personal income or earned income tax levied shall not be
7 invalidated by reason of the fact that in determining the amount
8 to be raised by such tax no deduction was made for
9 appropriations or reimbursements paid or payable by the
10 Commonwealth to the school district.

11 Section 1104. Taxes for cities and school districts of the
12 first class.

13 Notwithstanding any other provision of the Public School Code
14 of 1949 or any other law to the contrary:

15 (1) Nothing in this act shall be construed to limit or
16 impair a city of the first class from levying, assessing or
17 collecting any tax for municipal purposes or from increasing
18 the millage for real estate taxes or revenues if the revenues
19 derived from the real property tax are used solely for
20 municipal purposes.

21 (2) The reduction in real property tax millage in cities
22 of the first class shall be made in four equal installments
23 beginning with the 2011-2012 fiscal year and shall reduce the
24 millage by not less than 60% from the millage in effect on
25 July 30, 2010.

26 CHAPTER 12

27 INDEBTEDNESS

28 Section 1201. Expiration of authority to issue debt.

29 Notwithstanding any other provision of 53 Pa.C.S. Pt. VII
30 Subpt. B (relating to indebtedness and borrowing) or any other

1 law to the contrary, no school district, including a school
2 district of the first class, shall incur any electoral debt,
3 lease rental debt or nonelectoral debt under 53 Pa.C.S. Pt. VII
4 Subpt. B after the effective date of this section.

5 Section 1202. Notices and reporting by school districts of debt
6 outstanding.

7 (a) Duties.--

8 (1) (i) On or before March 31, 2011, each school
9 district, including a school district of the first class,
10 shall identify the outstanding amount of all electoral
11 debt, lease rental debt or nonelectoral debt incurred as
12 of June 30, 2011, and shall notify on or before March 31,
13 2011, each holder of the bonds or notes of such debt of
14 the amount owed to each holder as of December 31, 2010.
15 The notice shall inform the holders of the provisions of
16 this section and section 1203.

17 (ii) A holder of a bond or note of such debt shall
18 have the right to dispute the amount stated as owed to
19 the holder in the notice, provided that the holder
20 notifies the local government unit in writing prior to
21 April 15, 2011. A holder that fails to file a dispute
22 under this subparagraph shall waive the right to dispute
23 the amount owed to the holder after the Commonwealth
24 assumes the debt of the school district under section
25 1203.

26 (iii) A school district that receives a written
27 dispute from a holder under subparagraph (ii) shall
28 attempt to resolve the dispute by May 1, 2011.

29 (2) On or before June 30, 2011, each school district,
30 including a school district of the first class, shall certify

1 and report to the Department of Revenue the outstanding
2 amount of all electoral debt, lease rental debt or
3 nonelectoral debt incurred as of December 31, 2010, together
4 with any information requested by the department in order for
5 the Commonwealth to comply with the requirements of this
6 section and section 1203.

7 (b) Audit by Department of Revenue.--

8 (1) The Department of Revenue shall audit each report
9 submitted under subsection (a) and shall certify the amount
10 of each report and the total aggregate amount of all reports
11 to the State Treasurer and the Education Operating Fund Board
12 on or before June 30, 2011.

13 (2) If the Department of Revenue disputes all or any
14 portion of a report submitted under subsection (a), the
15 department shall not include such amount in the certification
16 to the State Treasurer and the Education Operating Fund Board
17 and shall notify the school district in writing of the
18 exclusion from the certification.

19 Section 1203. Assumption of school district debt by
20 Commonwealth.

21 (a) General rule.--Except as otherwise provided in
22 subsection (b), the Commonwealth shall assume on June 30, 2011,
23 the outstanding amount of all electoral debt, lease debt or
24 nonelectoral debt certified in the report submitted by the
25 Department of Revenue to the State Treasurer and the Education
26 Operating Fund Board. Such debt shall be managed and
27 administered by the School Financing Authority established under
28 section 1309, and repaid from the Education Operating Fund as
29 provided by law.

30 (b) Exceptions.--The Commonwealth may not assume:

1 (1) Any of the outstanding debt of a school district
2 that fails to certify and file a report with the Department
3 of Revenue as required by section 1202.

4 (2) That portion of the outstanding debt included in a
5 report filed by a school district, but which the Department
6 of Revenue does not include in its certification to the State
7 Treasurer and the Education Operating Fund Board under
8 section 1202(b) (2).

9 (3) Any portion of outstanding debt that cannot be
10 rewritten or refinanced by the Commonwealth at a lower cost.
11 Section 1204. Power to apply for debt and limitations.

12 The board of school directors in any school district may, in
13 any year after December 31, 2012, apply for an indebtedness in
14 the form of bonds and notes to secure the same, payable as
15 provided by 53 Pa.C.S. Pt. VII, Subpt. B (relating to
16 indebtedness and borrowing) or any amendment or re-enactment
17 thereof, for any or all of the following purposes:

18 (1) To purchase or acquire proper sites, buildings or
19 grounds for school use, or any lands additional to any
20 existing school sites or grounds.

21 (2) To erect, enlarge, equip or furnish any building for
22 school use.

23 (3) To repair, remodel or rebuild any building of the
24 school district.

25 (4) To lease for an extended period building facilities
26 or portions of buildings constructed for school use and/or
27 existing building facilities or portions of existing building
28 facilities altered for school use.

29 (5) To refund certain bonds, as provided in this
30 chapter.

1 (6) To fund temporary indebtedness incurred for
2 permanent improvements, or in anticipation of proceeds from a
3 bond issue.

4 Section 1205. Referendum requirement.

5 (a) General rule.--No debt shall be incurred pursuant to
6 section 1204 unless the requirements of subsection (b) are
7 satisfied.

8 (b) Adoption of referendum.--

9 (1) In order to incur debt specified in subsection (a),
10 the governing body shall use the procedures set forth in this
11 subsection.

12 (2) (i) Subject to the notice and public hearing
13 requirements of this subsection, a governing body may
14 incur debt specified in subsection (a) only by obtaining
15 the approval of the electorate of the affected school
16 district in a public referendum at only the municipal
17 election preceding the fiscal year when the debt will be
18 initially incurred.

19 (ii) The question shall be in clear language that is
20 readily understandable by a layperson. For the purpose of
21 illustration, a referendum question may be framed as
22 follows:

23 Do you favor the creation of debt in the amount of X
24 for school district purposes?

25 (iii) A nonlegal interpretative statement must
26 accompany the question in accordance with section 201.1
27 of the act of June 3, 1937 (P.L.1333, No.320), known as
28 the Pennsylvania Election Code.

29 (3) In the event a school district is located in more
30 than one county, petitions under this section shall be filed

1 with the election officials of the county in which the
2 administrative offices of the school district are located.

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

7 (5) (i) If the election officials of the county who
8 receive the petition certify that it is sufficient under
9 this section and determine that a question should be
10 placed on the ballot, the decision shall be communicated
11 to election officials in any other county in which the
12 school district is also located.

13 (ii) Election officials in the other county or
14 counties shall cooperate with election officials of the
15 county receiving the petition to ensure that an identical
16 question is placed on the ballot at the same election
17 throughout the entire school district.

18 (6) Election officials from each county involved shall
19 independently certify the results from their county to the
20 governing body.

21 (7) (i) In order to incur debt under this section, the
22 governing body shall adopt a resolution which refers to
23 this chapter prior to placing a question on the ballot.

24 (ii) Prior to adopting a resolution incurring debt
25 authorized by this section, the governing body shall give
26 public notice of its intent to adopt the resolution and
27 shall conduct at least one public hearing regarding the
28 proposed adoption of the resolution.

29 Section 1206. Temporary debt.

30 (a) Authorization.--Any school district having no

1 indebtedness or whose indebtedness, incurred or created without
2 the assent of the electors thereof, is less than an amount equal
3 to the standard disbursement for that school district made
4 pursuant to section 1304 for the immediately preceding fiscal
5 year may, at any time, for the purpose of providing funds in any
6 fiscal year for current expenses and debt service, for permanent
7 improvements, the acquiring of school buses, or in anticipation
8 of proceeds from a bond issue already officially authorized and,
9 except in school districts of the first class, approved by the
10 Department of Community and Economic Development, with such
11 limitations and for such length of term as provided in this
12 chapter, by or through its board of school directors, incur, in
13 addition to any bonds therein authorized, a temporary debt or
14 borrow money, and issue an obligation or obligations therefor,
15 under the seal of the district, if any, properly executed by the
16 president and attested by the secretary thereof, and bearing
17 interest not exceeding the legal rate, but no such obligation
18 shall be sold for less than par. The incurring of any such
19 temporary debt, or borrowing money upon such obligation, shall
20 receive the affirmative vote of not less than two-thirds of the
21 members of the board of school directors.

22 (b) Permanent improvements.--In addition, any school
23 district may, as provided in this section, incur a temporary
24 debt or borrow money for permanent improvements, where no bond
25 issue has been previously officially authorized, and refund such
26 temporary indebtedness by the issue of bonds, in the manner
27 provided by law, when the exact amount required for such
28 permanent improvement becomes known.

29 Section 1207. Limit on temporary debt for current expenses and
30 debt service.

1 The total amount of temporary indebtedness incurred for
2 current expenses and debt service shall at no time exceed an
3 amount equal to the standard disbursement for that school
4 district made pursuant to section 1304 for the immediately
5 preceding fiscal year. All loans shall be paid out of the
6 receipts available, or pledged for repayment when the funds are
7 received. The total amount of the temporary indebtedness for
8 such purpose remaining unpaid at the close of the fiscal year
9 shall become an obligation on the following year's budget and
10 shall be included in the following year's budget.

11 Section 1208. Emergency loans for current expenses and debt
12 service.

13 (a) General rule.--In case of an emergency, any school
14 district in any fiscal year, after borrowing money in
15 anticipation of current revenues to the full extent permitted by
16 law and finding the receipts from the loans, together with all
17 other receipts, to be inadequate to meet the expenditures of the
18 official fiscal year's budget, may appeal to the Education
19 Operating Fund Board for permission to incur a temporary debt
20 for the purpose of providing funds for current expenses and debt
21 service and shall present to the Education Operating Fund Board
22 the financial statements or reports as the Education Operating
23 Fund Board may require to give adequate facts relative to the
24 necessity of the increase in indebtedness. The Education
25 Operating Fund Board may, after due examination of the need of
26 the school district, grant or refuse permission to the school
27 district to borrow additional funds for current expenses and
28 debt service beyond the amount permitted by law. In case of
29 approval, the Education Operating Fund Board shall designate the
30 maximum length of the term and shall set a maximum limit of the

1 total amount of the temporary indebtedness that the school
2 district may incur during the fiscal year in addition to all
3 temporary indebtedness for other purposes outstanding at the
4 time of the approval.

5 (b) Limitations.--All temporary indebtedness, for the
6 purpose of current expenses and debt service by a school
7 district shall not exceed the standard disbursement for that
8 school district made pursuant to section 1304 for the
9 immediately preceding fiscal year.

10 Section 1209. Limit on temporary debt for permanent
11 improvements and tax levy.

12 The total amount of temporary indebtedness incurred in any
13 school district for the purpose of permanent improvements and
14 the acquiring of school buses, except obligations incurred under
15 law, shall never exceed an amount equal to the standard
16 disbursement for that school district made pursuant to section
17 1304 for the immediately preceding fiscal year. Except where
18 such temporary indebtedness is to be refunded by the issue of
19 bonds, as authorized, at or before the time of incurring
20 indebtedness for such purpose, provision shall be made for the
21 collection of an annual tax sufficient to pay the interest and
22 also the principal thereof within the term of such indebtedness,
23 as provided by law.

24 Section 1210. Limit on temporary debt in anticipation of
25 proceeds of bond issue.

26 (a) General rule.--The total amount of temporary
27 indebtedness incurred in anticipation of proceeds from a bond
28 issue shall not exceed 75% of the full amount of bonds
29 authorized by the bond issue.

30 (b) Payment.--All obligations, other than bonds, issued by

1 any school district in anticipation of proceeds from a bond
2 issue shall be paid in full, together with interest, out of the
3 proceeds of the bond issue within one year and six months from
4 the date of authorization of the bond issue.

5 Section 1211. Borrowing in anticipation of current revenue.

6 School districts may borrow money in anticipation of current
7 revenues to an amount not exceeding the anticipated current
8 revenues, which amount shall be pledged for the payment of the
9 loan or loans, and issue notes or other form of obligation,
10 executed by the president of the board of school directors and
11 attested by the secretary of the board under the seal of the
12 school district securing the loans. The notes, or other form of
13 obligation, shall mature and be payable during the current
14 fiscal year in which the money is borrowed. No borrowing shall
15 constitute an increase of indebtedness within the meaning of
16 section 8 of Article IX of the Constitution of Pennsylvania, or
17 any of the provisions of any other law. The notes shall bear
18 interest at a rate not exceeding 6% per annum, payable at
19 maturity or in advance, and may be sold at either public or
20 private sale for not less than par. If the loans are not repaid
21 in whole or in part during the fiscal year in which they are
22 made, they, or such amounts as remain unpaid, shall become an
23 obligation upon the following year's budget and shall be
24 included and paid not later than the first day of July of such
25 following year, in school districts of the first class, and not
26 later than the first day of November of the following year, in
27 school districts of the second, third, and fourth class. The
28 incurring of the obligations shall receive the affirmative vote
29 of not less than two-thirds of the members of the board of
30 school directors.

1 Section 1212. Mandatory reduction in local personal income tax
2 and earned income tax.

3 (a) Duty to reduce tax.--

4 (1) Each school district shall reduce the local personal
5 income tax adopted pursuant to Chapter 3 or earned income tax
6 adopted pursuant to Chapter 5, whichever is applicable, to
7 the full extent that the amount of money needed for the
8 payment of any obligations on debt authorized under this
9 chapter is reduced or eliminated.

10 (2) If a school district fails to comply with this
11 section, the EOF board shall reduce the standard disbursement
12 to that school board for each applicable fiscal year in the
13 amount of the reduction required, but not implemented, for
14 that year, together with a penalty equal to 10% of the
15 required reduction.

16 (b) Construction.--Nothing in this section shall be
17 construed to prohibit the school district from seeking an
18 increase in any tax reduced pursuant to this section in
19 accordance with the referendum procedure provided under Chapters
20 3 and 5.

21 CHAPTER 13

22 FUNDING PROVISIONS

23 Section 1301. 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 "Authority." The School Financing Authority established
28 under section 1309.

29 "Average per pupil expenditure." An amount equal to a school
30 district's current expenditures for a school year to include

1 General Fund expenditures in the functional classifications of
2 instruction, support services and operation of noninstructional
3 services, as designated in the Manual of Accounting and Related
4 Financial Procedures for Pennsylvania School Systems, divided by
5 the average daily membership of the school district for the same
6 school year.

7 "Average per pupil expenditure for each public school student
8 in the Commonwealth." An amount equal to the current
9 expenditures for all school districts for a school year to
10 include General Fund expenditures in the functional
11 classifications of instruction, support services and operation
12 of noninstructional services, as designated in the Manual of
13 Accounting and Related Financial Procedures for Pennsylvania
14 School Systems, divided by the total number of public school
15 students constituting average daily membership for all school
16 districts in this Commonwealth for the same school year.

17 "Board." The Education Operating Fund Board established
18 under section 1308.

19 "Consumer Price Index" or "CPR." The lesser of:

20 (1) the average annual percentage increase in the
21 Consumer Price Index for All Urban Consumers (CPI-U) for the
22 Pennsylvania, New Jersey and Maryland area for the preceding
23 calendar year, as reported by the United States Department of
24 Labor, Bureau of Labor Statistics; or

25 (2) the percentage increase in sales and use tax
26 collected under section 702 from the previous calendar year.

27 "Distressed district prevention and emergency disbursements."
28 Disbursements authorized from the Education Trust Reserve
29 Account under section 1305(b).

30 "Education Operating Fund" or "EOF." The Education Operating

1 Fund established under section 1302.

2 "Education Trust Reserve Account" or "ETR account." The
3 Education Trust Reserve Account established under section 1305.

4 "Equity disbursements." Disbursements authorized from the
5 School Equity Account under section 1306(c).

6 "Nonqualified operating expenses." The total dollar amount
7 of the following from the preceding fiscal year:

8 (1) any one-time, nonrecurring expense;

9 (2) disbursements from operating-type reserve
10 accumulations which were a source of funding from Federal,
11 State or local sources;

12 (3) school district-specific programs initiated and paid
13 for from school district sources of nontax funds;

14 (4) school district costs, including, but not limited
15 to, health care benefit costs that are assumed by the
16 Commonwealth, including the Education Operating Fund, after
17 the effective date of this section;

18 (5) direct school property tax administration and
19 collection costs; and

20 (6) debt service payments that the school district would
21 have made for the applicable fiscal year if the Commonwealth
22 had not assumed the school district's debt obligation
23 pursuant to Chapter 12.

24 "Qualifying line items." The following line items or
25 substantially identical line items in any general appropriations
26 act that authorize payments or reimbursements to a school
27 district:

28 (1) Payment of basic education funding to school
29 districts.

30 (2) Payments on account of special education of

1 exceptional children.

2 (3) Payments on account of pupil transportation.

3 (4) Payments on account of annual rental or sinking fund
4 charges on school buildings, including charter schools.

5 (5) Payments for early intervention services.

6 (6) Reimbursements to school districts for their charter
7 school payments.

8 (7) Special education-approved private schools.

9 (8) Payments on account of nonpublic and charter school
10 pupil transportation.

11 (9) Payment for tuition to school districts providing
12 education to nonresident orphaned children placed in private
13 homes by the court and nonresident inmates of children's
14 institutions.

15 (10) Grants to school districts to assist in meeting
16 Federal matching requirements for grants received under the
17 Child Nutrition Act of 1966 (Public Law 89-642, 42 U.S.C. §
18 1771 et seq.) and to aid in providing a food program for
19 needy children.

20 (11) Programs of education and training at youth
21 development centers and the monitoring of programs of
22 education and training provided to incarcerated juveniles.

23 (12) Payment on account of homebound instruction.

24 (13) Payments of annual fixed charges to school
25 districts in lieu of taxes for land acquired by the
26 Commonwealth for water conservation or flood prevention.

27 (14) Education of indigent children at charitable
28 hospitals.

29 "School District Equity Account." The School District Equity
30 Account established under section 1306(a).

1 "School Equity Capital Construction Fund" or "SECCF." The
2 School Equity Capital Construction Fund established under
3 section 1311.

4 "Standard disbursements." Disbursements made on a quarterly
5 basis from the Education Operating Fund as authorized under
6 section 1304.

7 "Student enrollment adjustment." A dollar amount determined
8 from the preceding fiscal year based on the net increase or
9 decrease in the total average daily membership of students
10 enrolled in that school district between the opening and the
11 closing of the school term that occurs within that preceding
12 fiscal year converted to a dollar amount as determined by the
13 Education Operating Fund Board. The transfer of a public school
14 student to a cyber school, charter school, facility for
15 receiving special education or other alternative school shall
16 not be deemed to decrease the number of students enrolled in a
17 school district for purposes of reducing the standard
18 distribution to a school district for any fiscal year in which
19 the school district pays at least \$2,000 toward the education of
20 any such student.

21 Section 1302. Education Operating Fund.

22 (a) Establishment.--The Education Operating Fund is
23 established in the State Treasury.

24 (b) Contents.--

25 (1) The fund shall consist of:

26 (i) All moneys collected by the department under
27 section 321, Chapter 7 and section 1307.

28 (ii) Any other moneys required by this act or other
29 law to be deposited into the fund.

30 (2) (i) On or before July 1, 2011, each school district

1 shall transfer a sum of money equal to its ending
2 unreserved, undesignated fund balance as of July 1, 2010,
3 to the Education Operating Fund.

4 (ii) As used in this paragraph, "ending unreserved,
5 undesignated fund balance" means that portion of the
6 school district's general fund balance which is
7 appropriable for expenditure or not legally or otherwise
8 segregated for a specific or tentative future use, at the
9 close of the fiscal year for which a school district's
10 budget was adopted and held in the general fund accounts
11 of the school district.

12 (3) (i) Notwithstanding the provisions of the act of
13 December 15, 1955 (P.L.865, No.256) entitled "An act
14 requiring rents and royalties from oil and gas leases of
15 Commonwealth land to be placed in a special fund to be
16 used for conservation, recreation, dams, and flood
17 control; authorizing the Secretary of Forests and Waters
18 to determine the need for and location of such projects
19 and to acquire the necessary land," or other law to the
20 contrary, an amount equal to 70% of any rents and
21 royalties, in excess of the base year rents and
22 royalties, received from oil and gas leases of any land
23 owned by the Commonwealth, except rents and royalties
24 received from game and fish lands, which amount is hereby
25 authorized to be deposited quarterly into the Education
26 Operating Fund.

27 (ii) As used in this paragraph, "base year rents and
28 royalties" means the total amount of rents and royalties
29 from oil and gas leases attributed to any parcel of land
30 owned by the Commonwealth in the fiscal year beginning

1 July 1, 2008, except rents and royalties from game and
2 fish lands, which amount shall be adjusted annually by an
3 amount that corresponds in proportion to the annual
4 change in the Consumer Price Index for All Urban
5 Consumers (CPI-U) for the United States city average for
6 all items as published by the United States Department of
7 Labor, Bureau of Labor Statistics. The Secretary of
8 Revenue shall publish the annual adjustments as a notice
9 in the Pennsylvania Bulletin.

10 (c) Separate fund.--The fund and all accounts of the fund
11 shall be separate from all other funds of the Commonwealth and
12 shall not be subject to borrowing by or transfer to the General
13 Fund or any other fund in the State Treasury.

14 (d) Continuing appropriation.--All money placed in the fund
15 and in the ETR Account and the School District Equity Account
16 and the interest they accrue are hereby appropriated to the
17 board on a continuing basis and may be expended by the board
18 only for the purposes authorized under this act.

19 Section 1303. Cash flow funding forecasts.

20 (a) Scope and purpose.--

21 (1) This section imposes a duty on school districts to
22 provide the board with certain cash flow funding forecasts.

23 (2) The purpose of the cash flow funding forecasts is to
24 assist the board to make distressed district prevention and
25 emergency disbursements to school districts under section
26 1306 and to improve the ability of school districts to
27 monitor and plan their expenditures in a more fiscally
28 effective manner.

29 (b) Annual submission of funding forecasts.--On or before
30 July 1, 2009, and continuing annually thereafter, each school

1 district shall submit to the board a preliminary annual cash
2 flow funding forecast relating to school district operations
3 that need to be funded from the fund for the following fiscal
4 year for the calendar quarters ending September 30, December 31,
5 March 31 and June 30.

6 (c) Contents.--The cash flow funding forecast shall be
7 referenced to the fiscal year then ending and may only include
8 operating expenditure categories included in the school
9 district's budget for that fiscal year. The budget contained in
10 the forecast:

11 (1) May not exceed actual operating expenditures for the
12 2010-2011 fiscal year plus estimated debt service on all debt
13 as of December 31, 2010, and, in succeeding years, may not
14 exceed actual operating expenditures for the prior fiscal
15 year as modified by the student enrollment adjustment. Any
16 tax revenue collections for the period July 1, 2010, through
17 June 30, 2013, shall be itemized and deducted in the
18 forecasting funding requirements. Fund increases shall be
19 factored into these forecasts.

20 (2) May not include expenditures based on the one-time
21 use of reserves set up in prior years.

22 (3) Shall report all estimated requirements net of any
23 available school district operating reserves and all other
24 receipts and sources of tax revenue collections of any kind
25 through the fiscal year beginning July 1, 2014, and each
26 fiscal year thereafter, except as authorized by local
27 referendum after July 1, 2014.

28 (4) Shall apply all noncapital expenditure reserves
29 against the forecasted net funding requirements.

30 (5) Shall treat debt service for capital expenditures as

1 separate line items and exclude debt service approved by
2 referendum.

3 (d) Quarterly updates.--On or before July 1, 2011, and
4 continuing quarterly thereafter on the last day of each quarter,
5 each school district shall submit to the board a cash flow
6 funding forecast quarterly update relating to school district
7 operations that need to be funded from the fund for the current
8 year.

9 Section 1304. Standard disbursements to school districts from
10 Education Operating Fund.

11 (a) Standard draw requests by school districts.--For the
12 fiscal year beginning July 1, 2011, and continuing each fiscal
13 year thereafter, each school district shall submit on a
14 quarterly basis to the board a draw request for a standard
15 disbursement, which draw request shall be filed no later than 30
16 days prior to the beginning of the next quarter. The board shall
17 prescribe the form and content of the draw request for a
18 standard disbursement.

19 (b) Standard disbursement formula.--After receipt and review
20 of the quarterly draw requests submitted by school districts
21 under subsection (a), the board shall make standard
22 disbursements from the fund to each school district, other than
23 a school district of the first class, on or before the last day
24 of each quarter as follows:

25 (1) For the fiscal year beginning July 1, 2011, the
26 amount of each quarterly standard disbursement for each
27 school district, as adjusted by subtracting nonqualified
28 operating expenses, in accordance with paragraph (6), shall
29 be equal to 25% of the following:

30 (i) a dollar amount which shall be equal to all

1 payments and reimbursements received by the school
2 district for the 2010-2011 fiscal year from qualifying
3 line items in a general appropriations act that
4 authorizes payments and reimbursements to the school
5 district for that fiscal year as adjusted by the
6 percentage increase in the CPI for calendar year 2010 and
7 by the student enrollment adjustment;

8 (ii) the dollar amount equal to the 25% reduction in
9 real property tax revenues resulting from the application
10 of section 1102(a)(2) for that fiscal year;

11 (iii) fifty percent of the dollar amount collected
12 from school per capita tax during calendar year 2011; and

13 (iv) fifty percent of the dollar amount collected
14 from the Local Tax Enabling Act during calendar year
15 2011.

16 (2) For the fiscal year beginning July 1, 2012, the
17 amount of each quarterly standard disbursement to the school
18 district, as adjusted by subtracting nonqualified operating
19 expenses, in accordance with paragraph (6), shall be equal to
20 25% of the following:

21 (i) a dollar amount equal to the sum calculated
22 pursuant to paragraph (1)(i) as adjusted by the
23 percentage increase in the CPI for calendar year 2011 in
24 accordance with paragraph (6);

25 (ii) the dollar amount equal to the 50% reduction in
26 real property tax revenues resulting from the application
27 of section 1102(a)(3) for that fiscal year as adjusted by
28 the percentage increase in the CPI for calendar year 2011
29 and by the student enrollment adjustment;

30 (iii) the dollar amount collected from the school

per capita tax and the Local Tax Enabling Act during calendar year 2011; and

(iv) a dollar amount equal to the equity disbursement received by the school district for the 2011-2012 fiscal year pursuant to section 1306(c)(2).

(3) For the fiscal year beginning July 1, 2013, the amount of each quarterly standard disbursement to a school district as adjusted by subtracting nonqualified operating expenses, in accordance with paragraph (6), shall be equal to 25% of the following:

(i) a dollar amount equal to the sum calculated pursuant to paragraph (2)(i) and (iv) as adjusted by the percentage increase in the CPI for calendar year 2012 and by the student enrollment adjustment;

(ii) the dollar amount equal to the 75% reduction in real property tax revenues resulting from the application of section 1102(a)(4) as adjusted by the percentage increase in the CPI for 2012 and by the student enrollment adjustment;

(iii) the dollar amount calculated pursuant to paragraph (2)(iii) as adjusted by the percentage increase in the CPI for 2012; and

(iv) a dollar amount equal to the equity disbursement received by the school district for the 2012-2013 fiscal year pursuant to section 1306(c)(3).

(4) For the fiscal year beginning July 1, 2014, the amount of each quarterly standard disbursement to a school district as adjusted by subtracting nonqualified operating expenses, in accordance with paragraph (6), shall be equal to 25% of the following:

1 (i) a dollar amount equal to the sum calculated
2 pursuant to paragraph (3)(i) and (iv) as adjusted by the
3 percentage increase in the CPI for calendar year 2013 and
4 by the student enrollment adjustment;

5 (ii) a dollar amount equal to loss of revenues
6 resulting from the complete elimination of the real
7 property tax on residential property as adjusted by the
8 percentage increase in the CPI for 2013;

9 (iii) the dollar amount calculated pursuant to
10 paragraph (3)(iii) as adjusted by the percentage increase
11 in the CPI for 2013; and

12 (iv) a dollar amount equal to the equity
13 disbursement received by the school district for the
14 2013-2014 fiscal year pursuant to section 1306(c)(3).

15 (5) For the fiscal year beginning 2015 and for each
16 fiscal year thereafter, the amount of each quarterly
17 disbursement shall be equal to 25% of the standard
18 disbursement made in the preceding fiscal year, which shall
19 include the equity disbursement made pursuant to section
20 1306(c)(3), as adjusted by the percentage increase in the CPI
21 for the preceding calendar year and the student enrollment
22 adjustment and by subtracting nonqualified operating expenses
23 in accordance with paragraph (6).

24 (6) Any subtraction from the standard disbursement for
25 nonqualified operating expenses shall only modify the
26 standard disbursement for the applicable fiscal year and such
27 subtractions shall not be factored into the standard
28 disbursements for any subsequent fiscal year.

29 (c) Standard disbursement formula for school districts of
30 the first class.--After receipt and review of the quarterly draw

requests submitted by school districts under subsection (a), the board shall make standard disbursements from the fund to each school district of the first class on or before the last day of each quarter as follows:

(1) For the fiscal year beginning July 1, 2011, the amount of each quarterly standard disbursement for each 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 sum which shall be equal to all payments and reimbursements received by the school district for the 2010-2011 fiscal year from qualifying line items in a general appropriations act that authorizes payments and reimbursements to the school district for the fiscal year as adjusted by the percentage increase in the CPI for calendar year 2010 and by the student enrollment adjustment; and

(ii) the dollar amount equal to the 25% reduction in real property tax and other tax revenues resulting from the application of section 1102(b)(2) for that fiscal year.

(2) For the fiscal year beginning July 1, 2012, 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 (1)(i) as adjusted by the percentage increase in the CPI for calendar year 2011 and by the student enrollment adjustment;

1 (ii) the dollar amount equal to the 50% reduction in
2 real property tax and other tax revenues resulting from
3 the application of section 1102(b)(3) for that fiscal
4 year as adjusted by the percentage increase in the CPI
5 for 2011; and

6 (iii) a dollar amount equal to the equity
7 disbursement received by the school district for the
8 2011-2012 fiscal year pursuant to section 1306(c)(2).

9 (3) For the fiscal year beginning July 1, 2013, the
10 amount of each quarterly standard disbursement to a school
11 district of the first class as adjusted by subtracting
12 nonqualified operating expenses, in accordance with paragraph
13 (7), shall be equal to 25% of the following:

14 (i) a dollar amount equal to the sum calculated
15 pursuant to paragraph (2)(i) and (iii) as adjusted by the
16 percentage increase in the CPI for calendar year 2012 and
17 by the student enrollment adjustment;

18 (ii) the dollar amount equal to the 75% reduction in
19 real property tax and other tax revenue resulting from
20 the application of section 1102(b)(4) as adjusted by the
21 percentage increase in the CPI for 2012; and

22 (iii) a dollar amount equal to the equity
23 disbursement received by the school district for the
24 2012-2013 fiscal year pursuant to section 1306(c)(3).

25 (4) For the fiscal year beginning July 1, 2014, the
26 amount of each quarterly standard disbursement to a school
27 district of the first class, as adjusted by subtracting
28 nonqualified operating expenses, in accordance with paragraph
29 (7), shall be equal to 25% of the following:

30 (i) a dollar amount equal to the sum calculated

1 pursuant to paragraph (3)(i) and (iii) as adjusted by the
2 percentage increase in the CPI for calendar year 2013 and
3 by the student enrollment adjustment;

4 (ii) a dollar amount equal to loss of real property
5 and other tax revenues resulting from the complete
6 implementation of section 1102(b) as adjusted by the
7 percentage increase in the CPI for 2013; and

8 (iii) a dollar amount equal to the equity
9 disbursement received by the school district for the
10 2013-2014 fiscal year pursuant to section 1306(c)(3).

11 (5) For the fiscal year beginning July 1, 2015, and for
12 each fiscal year thereafter, the amount of each quarterly
13 disbursement to each school district of the first class shall
14 be equal to 25% of the standard disbursement made in the
15 immediately preceding fiscal year, which shall include the
16 equity disbursement made pursuant to section 1306(c)(3), as
17 adjusted by the percentage increase in the CPI for the
18 preceding calendar year and the student enrollment adjustment
19 and by subtracting nonqualified operating expenses in
20 accordance with paragraph (7).

21 (6) Any financial assistance provided by a city of the
22 first class to a school district of the first class for the
23 fiscal year beginning on July 1, 2011, and each succeeding
24 fiscal year, shall be deemed a nonqualified operating expense
25 for purposes of this section.

26 (7) Any subtraction from the standard disbursement for
27 nonqualified operating expenses shall only modify the
28 standard disbursement for the applicable fiscal year and such
29 subtractions shall not be factored into the standard
30 disbursement for any subsequent fiscal year.

1 (d) Mandatory duty to pay.--The standard disbursements under
2 this section shall be paid from the EOF regardless of whether
3 the minimum balance has been attained in the ETR Account as set
4 forth under this chapter.

5 (e) Construction.--Distressed school district and emergency
6 disbursements and Federal funds appropriated by the Commonwealth
7 shall not be incorporated into the standard disbursements
8 authorized by this section and shall not be deemed to be
9 nonqualified expenses.

10 (f) Limitation on funding reduction for decline in student
11 enrollment.--Notwithstanding anything in this act to the
12 contrary, a reduction in the standard disbursement for a decline
13 in student enrollment shall only be made to the extent that a
14 decline in student enrollment reduces the student enrollment by
15 more than 10% from the student enrollment in that school
16 district at the beginning of the 2011-2012 fiscal year.

17 Section 1305. Education Trust Reserve Account and distressed
18 district prevention and emergency disbursements.

19 (a) Establishment of Education Trust Reserve Account.--The
20 Education Trust Reserve Account is hereby established as a
21 restricted account within the fund. The account shall be
22 administered by the board in accordance with this section.

23 (b) Distressed district prevention and emergency
24 disbursements.--

25 (1) (i) As a precondition for making any distressed
26 district prevention and emergency disbursements during
27 the 2011-2012 fiscal year, the ETR Account must have a
28 balance, on June 30, 2011, which is not less than 15% of
29 the amount specified under section 1304(b)(1)(i) and (c)
30 (1)(i) for all school districts for the 2010-2011 fiscal

1 year, as adjusted by the change in the consumer price
2 index and as adjusted by the collective student
3 enrollment adjustments and the nonqualified operating
4 expenses determined for all the school districts.

5 (ii) As a precondition for making such disbursements
6 during the 2012-2013 fiscal year and each succeeding
7 fiscal year, the ETR Account must have a balance on June
8 30 immediately preceding the disbursement fiscal year
9 which is not less than 15% of the revenues allocated by
10 law for all school districts for the fiscal year
11 preceding the disbursement fiscal year, as adjusted by
12 the change in the consumer price index and as adjusted by
13 the student enrollment adjustments and the nonqualified
14 operating expenses determined for all school districts
15 for the immediately preceding 12-month period.

16 (iii) The determination of the amount specified
17 under section 1304(b)(1)(i) and (c)(1)(i) revenues
18 allocated for all school districts for purposes of this
19 paragraph shall be calculated by aggregating the sum
20 determined for each school district pursuant to section
21 1304(b)(1)(i) and (c)(1)(i).

22 (2) (i) After disbursements are made pursuant to
23 sections 1304 and 1307 and after any necessary moneys are
24 expended to maintain the mandatory minimum 15% ETR
25 Account balance as provided in paragraph (1),
26 disbursements authorized by this subsection shall be made
27 as provided in this paragraph.

28 (ii) An amount equal to not more than 1 1/4% of the
29 remaining moneys in the EOF and the School District
30 Equity Account or up to \$125,000,000, whichever is

greater, may be disbursed by the board each quarter during the 2011-2012, 2012-2013 and 2013-2014 fiscal years for distressed district prevention and emergency disbursements.

(iii) An amount which shall not exceed .75% of the remaining moneys in the EOF and the School District Equity Account may be disbursed by the board for each quarter during the 2014-2015 fiscal year and each succeeding fiscal year for each quarter for the sole purpose of assisting school districts that are facing major and unanticipated fiscal emergencies.

(c) Scope of distressed district prevention and emergency disbursements.--Distressed district prevention and emergency disbursements may only be expended for the purpose of preventing school districts that are experiencing severe financial difficulties from beginning distressed school districts pursuant to Article VI of the Public School Code of 1949 and for the purpose of assisting school districts that are facing major and unanticipated fiscal emergencies.

(d) Transfers to Education Trust Reserve Account.--Except for the moneys necessary to make the disbursements required by sections 1304 and 1307, the board shall immediately transfer all moneys deposited in the EOF and the School District Equity Account, between the effective date of this section and June 30, 2011, into the ETR Account until the ETR Account attains a balance of \$3,000,000,000 and after June 30, 2011, the board shall continue to transfer sufficient moneys from the EOF and the School District Equity Account into the ETR Account to assure the account achieves and maintains a balance of \$3,000,000,000 or the mandatory minimum 15% balance mandated

under subsection (b), whichever is greater. The balance in the ETR Account shall not exceed 25% of the revenues allocated in accordance with subsection (b)(1).

(e) Applicability.--This section shall not apply to moneys received by the board pursuant to section 1306(b).

(f) Definition.--As used in this section, the term "normalized calculated balance" shall have the meaning given to it by the board.

Section 1306. Equity disbursements to school districts from School District Equity Account.

(a) Establishment of School District Equity Account.--The School District Equity Account is hereby established as a restricted account within the fund. The account shall be administered by the board in accordance with this section.

(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 2011-2012 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 2011-2012 fiscal year in equal

1 quarterly amounts, to all school districts as equity
2 disbursements for the 2011-2012 fiscal year in accordance
3 with the formula prescribed in subsection (e). All equity
4 disbursements distributed pursuant to this paragraph shall be
5 incorporated into each school district's standard
6 disbursement for the 2012-2013 fiscal year.

7 (3) The board shall distribute 50% of the moneys
8 transferred into the School District Equity Account pursuant
9 to subsection (b) in each succeeding fiscal year in equal
10 quarterly amounts to all school districts for the applicable
11 fiscal year in accordance with the formula prescribed in
12 subsection (e). Fifty percent of all equity disbursements
13 distributed pursuant to this paragraph shall be incorporated
14 into each school district's standard disbursement in the
15 fiscal year immediately following the fiscal year for which
16 the school district receives such equity disbursement
17 pursuant to this paragraph. The remaining 50% of the moneys
18 that are not distributed in accordance with this paragraph
19 shall be utilized in accordance with subsection (f).

20 (4) (i) Before any equity disbursements may be made for
21 any quarter pursuant to this section, the moneys in the
22 School District Equity Account shall first be expended to
23 make the standard disbursements to the extent that there
24 are insufficient funds in the EOF to pay such standard
25 disbursements and then to assure that the mandatory 15%
26 minimum balance required under section 1305(b) is
27 maintained.

28 (ii) All moneys remaining in the account shall be
29 disbursed to qualified school districts as equity
30 disbursements and distressed district prevention and

emergency disbursements to the extent permitted under
this section and section 1305.

(d) Mandated per pupil expenditure levied through equity
disbursements.--The board shall continue making equity
disbursements pursuant to subsection (c)(2) and (3) until the
average per pupil expenditure for each public school student in
this Commonwealth equals \$10,000 or such higher average per
pupil expenditure for each public school student in this
Commonwealth as may be established pursuant to a subsequently
enacted law that prescribes a higher average per pupil
expenditure for each public school student in this Commonwealth.

(e) Distribution formula.--The board shall make the equity
disbursements provided for under subsection (d) in the following
manner:

(1) The board shall first distribute equity
disbursements in a manner that assures that the average per
pupil expenditure for each school district equals the average
per pupil expenditure for each public school student in this
Commonwealth for the preceding fiscal year.

(2) Any remaining funds available for distribution as
equity disbursements in the applicable fiscal year shall be
distributed in a manner that increases the average per pupil
expenditure for each school district by the same percentage
until the per pupil expenditure prescribed in subsection (d)
is attained in each school district with an average per pupil
expenditure below the average per pupil expenditure
prescribed in subsection (d).

(f) Remaining funds.--Fifty-percent of the moneys provided
for in subsection (b) that are not expended in accordance with
subsection (c)(2) and (3) shall be utilized in the following

1 order of priority:

2 (1) For standard disbursements in accordance with
3 section 1304, to the extent there are insufficient available
4 funds in the EOF to make a full standard disbursement in any
5 fiscal year.

6 (2) For transfers to the ETR Account, insofar as such
7 transfer may be necessary to maintain the reserves in that
8 account required under this chapter.

9 Section 1307. Other disbursements from Education Operating
10 Fund.

11 (a) Retirement and pension payments.--For the fiscal year
12 beginning July 1, 2011, and for each fiscal year thereafter, the
13 amount of each quarterly disbursement to school districts shall
14 occur only after the State Treasurer has made payment from the
15 EOF on requisition from the board of the annual amount due for
16 payment of the Commonwealth's share of Federal Social Security
17 taxes for public school employees and for payment of the
18 required retirement contribution for public school employees.

19 (b) Debt payments.--For the fiscal year beginning July 1,
20 2011, and for each fiscal year thereafter, the amount of each
21 quarterly payment to school districts shall occur only after the
22 State Treasurer has made payment from the EOF on requisition
23 from the board of the annual amount due for school district debt
24 assumed by the Commonwealth pursuant to law.

25 Section 1307.1. School District Grant and Incentive Programs
26 Fund.

27 (a) Establishment.--The School District Grant and Incentive
28 Programs Fund is established in the State Treasury and shall be
29 administered by the board.

30 (b) Transfers.--

1 (1) For each quarter that the board approves payments
2 under sections 1304 and 1307, the board shall determine the
3 balance in the EOF after making such payments and shall
4 transfer the amount of the balance to the School District
5 Grant and Incentive Programs Fund.

6 (2) This subsection shall not apply to any moneys
7 received by the board pursuant to section 1306(b).

8 (c) Appropriations.--The General Assembly may appropriate
9 money from the School District Grant and Incentive Payment
10 Programs Fund to the Department of Education for the
11 administration of programs that offer grants or incentives to
12 school districts in order to achieve academic and other
13 education-related goals and standards.

14 (d) Proportionate reductions in disbursements.--In the event
15 that moneys in the School District Grant and Incentive Payment
16 Programs Fund are insufficient to fund the appropriations from
17 this fund, the Department of Education shall reduce
18 disbursements from this fund each appropriation by the same
19 percentage.

20 Section 1307.2. Other appropriations.

21 Nothing in this act shall preclude the General Assembly from
22 making appropriations out of the General Fund and other
23 Commonwealth funds for the maintenance and support of public
24 education.

25 Section 1308. Education Operating Fund Board.

26 (a) Establishment.--The Education Operating Fund Board is
27 hereby established. The board shall consist of the following
28 members:

29 (1) The Secretary of Education, while serving in this
30 capacity.

1 (2) The Secretary of Revenue, while serving in this
2 capacity.

3 (3) The executive director of the School Financing
4 Authority, while serving in this capacity.

5 (4) Four legislative appointees.

6 (i) Appointments are as follows:

7 (A) One individual appointed by the President
8 pro tempore of the Senate.

9 (B) One individual appointed by the Minority
10 Leader of the Senate.

11 (C) One individual appointed by the Majority
12 Leader of the House of Representatives.

13 (D) One individual appointed by the Minority
14 Leader of the House of Representatives.

15 (ii) A legislative appointee shall be removed from
16 office by the appointing authority:

17 (A) for misconduct in office, willful neglect of
18 duty or conduct evidencing unfitness for office or
19 incompetence; or

20 (B) upon conviction of an offense graded as a
21 felony, an infamous crime or an equivalent offense
22 under Federal law or the law of another jurisdiction.

23 (iii) An individual appointed to the board pursuant
24 to subparagraph (i) may not be a member of the General
25 Assembly or staff of a member of the General Assembly.

26 (b) Chairperson to be selected.--The members shall select a
27 member of the board to serve as chairperson and shall select
28 from among themselves such officers as they shall determine.

29 (c) Meetings.--The board shall meet at least six times a
30 year at such times and places as it shall determine. Special

1 meetings may be called by the chairman or at the request of a
2 majority of the members of the board.

3 (d) Quorum.--Five members of the board shall constitute a
4 quorum.

5 (e) Reimbursement of expenses.--The members of the board
6 shall be entitled to no compensation for their services as
7 members of the board but shall be entitled to reimbursement for
8 all necessary and reasonable expenses incurred in connection
9 with the performance of their duties as members of the board.

10 (f) Fiduciary status.--The members of the board and the
11 professional personnel of the board shall stand in a fiduciary
12 relationship with the Commonwealth and the authority as to the
13 moneys in the accounts of the authority and investments of the
14 authority.

15 (g) Standard of care.--The members of the board in
16 performance of their duties under this section shall exercise
17 the standard of care required by 20 Pa.C.S. Ch. 73 (relating to
18 municipalities investments).

19 (h) Appointments.--Appointing authorities shall appoint
20 initial members to the board within 30 days of the effective
21 date of this section. Whenever a vacancy occurs on the board,
22 the appointing authority shall appoint a successor member within
23 30 days of the vacancy.

24 (i) Powers.--The board shall:

25 (1) approve standard disbursements from the fund,
26 distressed district prevention and emergency distributions
27 and equity distributions;

28 (2) have perpetual existence as a corporation;

29 (3) sue and be sued, implead and be impleaded, complain
30 and defend, in all courts;

1 (4) adopt, use and alter at will a corporate seal;

2 (5) make bylaws for the management and regulation of its
3 affairs;

4 (6) appoint officers, agents, employees and servants,
5 prescribe their duties and fix their compensation;

6 (7) make contracts of every name and nature, and execute
7 all instruments necessary or convenient for the carrying-on
8 of its business, including, but not limited to, the
9 Commonwealth school districts;

10 (8) without limitation of the foregoing, borrow money
11 and accept grants from and enter into contracts, leases or
12 other transaction with any Federal agency, for carrying out
13 the purposes of the board; and

14 (9) do all acts and things necessary or convenient to
15 carry out the powers granted to it by this act or any other
16 acts.

17 Section 1309. School Financing Authority.

18 (a) Establishment.--The School Financing Authority is hereby
19 established.

20 (b) Membership.--The authority shall consist of the
21 following members:

22 (1) The Secretary of Education, while serving in this
23 capacity.

24 (2) The State Treasurer, while serving in this capacity.

25 (3) The executive director of the Education Operating
26 Fund Board, while serving in this capacity.

27 (4) Four persons, one of whom shall be appointed by the
28 President pro tempore, one appointed by the Minority Leader
29 of the Senate, one appointed by the Majority Leader of the
30 House of Representatives and one appointed by the Minority

1 Leader of the House of Representatives. None of these
2 appointees may be a member of the General Assembly or a staff
3 member of the General Assembly. A legislative appointee shall
4 be removed from office by the appointing authority:

5 (i) for misconduct in office, willful neglect of
6 duty or conduct evidencing unfitness for office or
7 incompetence; or

8 (ii) upon conviction of an offense graded as a
9 felony, an infamous crime, an offense under this act or
10 an equivalent offense under Federal law or the law of
11 another jurisdiction.

12 (c) Powers and duties.--

13 (1) The authority shall manage and administer all public
14 school district debt, including, but not limited to,
15 consolidating, securitizing, financing, refinancing or
16 recalling debt for public school facilities for use as a part
17 of the public school system of the Commonwealth. The
18 authority shall be responsible for the management and
19 administration of all school district debt and such other
20 related debt as may be assumed by the Commonwealth.

21 (2) Subject to the provisions in paragraph (3), the
22 authority is hereby granted and shall have and may exercise
23 all the powers necessary or convenient for the carrying out
24 of the purposes identified in paragraph (1), including, but
25 not limited to, the following:

26 (i) To have perpetual existence as a corporation.

27 (ii) To sue and be sued, implead and be impleaded,
28 complain and defend in all courts.

29 (iii) To adopt, use and alter at will a corporate
30 seal.

1 (iv) To acquire, purchase, hold, lease as lessee and
2 use any property real, personal or mixed, tangible or
3 intangible, or any interest therein, necessary or
4 desirable, for carrying out the purposes of the authority
5 and to sell, lease as lessor, transfer and dispose of any
6 property or any interest therein at any time acquired by
7 it.

8 (v) To finance projects by making loans to any
9 eligible school district, which loans may be evidenced by
10 and secured as may be provided in loan agreements, which
11 may contain such provisions as the authority shall
12 determine necessary or desirable for the security or
13 protection of the authority or its bondholders. All such
14 provisions shall be a part of the contract with the
15 holders of the bonds of the authority issued with respect
16 to such project.

17 (vi) To acquire by purchase, lease or otherwise, for
18 carrying out the purposes of the authority.

19 (vii) To make bylaws for the management and
20 regulations of its affairs.

21 (viii) To make contracts of every name and nature
22 and to execute all instruments necessary or convenient
23 for the carrying on of its business, including, but not
24 limited to, school districts.

25 (ix) To enter into contracts with the board of
26 school directors of any school district, for the purpose
27 of acquiring, financing, refinancing, constructing,
28 improving, furnishing and equipping school district
29 facilities as a part of the public school system of this
30 Commonwealth under the provisions approved by a

1 referendum vote by the district electorate on either the
2 newly proposed debt or specific terms and amounts of debt
3 previously approved by the authority.

4 (x) Without limitation of the other provisions of
5 this subsection, to borrow money and accept grants from,
6 and to enter into contracts, leases or other transaction
7 with any Federal agency, for carrying out the purposes of
8 the authority.

9 (xi) To petition the Commonwealth to obtain
10 additional public funding for debt service for school
11 districts unable to raise sufficient funds for essential
12 project debt service.

13 (xii) To underwrite all long-term capital debt for
14 all public school districts after June 30, 2008.

15 (xiii) To take all actions necessary and proper to
16 ensure that the payments made by the Education Operating
17 Fund for school district debt are made at the lowest
18 possible cost of capital funds providing the best return
19 for fund expenditures.

20 (xiv) To pledge, hypothecate or otherwise encumber,
21 all or any of the revenues or receipts of the authority
22 as security for all, or any of, the obligations of the
23 authority.

24 (xv) To do all acts and things necessary or
25 convenient to carry out the powers granted to it by this
26 section, this act or any other act.

27 (d) Prohibition.--

28 (1) The authority shall have no power, at any time or in
29 any manner, to pledge the credit or taxing power of the
30 Commonwealth or any of its school districts, nor shall any of

1 its obligations or debts be deemed to be obligations of the
2 Commonwealth or any of its school districts, nor shall the
3 Commonwealth or any of its school districts be liable for the
4 payment of principal or interest on such obligations.

5 (2) All school district debt service payments made by
6 the fund for consolidating, securitizing, financing,
7 refinancing or recalling school district debt shall be
8 obligations of the fund or the school districts and not of
9 the authority.

10 (3) All contracts between the authority and school
11 districts shall be conditioned upon voter approval, in
12 accordance with standards and regulations prescribed by the
13 department. The Department of Education shall review and
14 approve each school district project referendum including all
15 terms, conditions and amount of debt to be voted upon prior
16 to such referendum to determine:

17 (i) The extent to which they conform to general
18 State and county requirements.

19 (ii) The amount of debt.

20 (iii) The adequacy of the proposed project.

21 (iv) The ability of the local school district or
22 districts to amortize the cost of the project and to
23 defray the cost of operation and maintenance.

24 (4) No contract may be executed between the authority
25 and school districts without the specific written approval of
26 the board.

27 Section 1310. Reduction of sales and use tax for education.

28 (a) General rule.--The tax reduction provided for in this
29 section shall not occur until school equity disbursements for
30 all public school students in this Commonwealth attain the level

1 prescribed in section 1306(d) and until the criteria set forth
2 in subsections (b) and (c), whichever subsection is applicable,
3 are met.

4 (b) Initial reduction.--

5 (1) When the board determines that the EOF, the ETR
6 Account and the School District Equity Account have
7 maintained a normalized calculated balance that collectively
8 exceeds the annual standard disbursement to all school
9 districts for the immediately preceding fiscal year by at
10 least 40% for a period of eight consecutive quarters, the
11 board, in consultation with the Department of Revenue, shall
12 publish this determination as a notice in the Pennsylvania
13 Bulletin. The notice shall specify:

14 (i) the amount of money in the EOF and other
15 accounts in excess of 40% of the standard disbursement to
16 all school districts on the last day of the fiscal year
17 immediately preceding this determination; and

18 (ii) the percentage by which the normalized
19 calculated balance exceeds such standardized disbursement
20 for the fiscal year preceding the board's determination.

21 (2) Beginning with the first quarter occurring 30 days
22 after such publication, the Department of Revenue shall
23 reduce the rate of the tax imposed under Subchapter B of
24 Chapter 7 by the amount in excess of 40% of the standard
25 disbursement as published in the Pennsylvania Bulletin
26 pursuant to this subsection.

27 (c) Subsequent tax reduction.--

28 (1) Whenever the EOF, the ETR Account and the School
29 District Equity Account attain a normalized calculated
30 balance that collectively exceeds the standard disbursement

1 to school districts in the immediately preceding fiscal year
2 by a percentage that exceeds the percentage last published
3 pursuant to subsection (b) or this subsection for a period of
4 eight consecutive quarters, the board, in consultation with
5 the Department of Revenue, shall publish this determination
6 as a notice in the Pennsylvania Bulletin. The notice shall
7 specify:

8 (i) the collective amount of money in the EOF and
9 other accounts in excess of the standard disbursement to
10 all school districts on the last day of the fiscal year
11 immediately preceding this determination; and

12 (ii) the percentage published in connection with the
13 last tax reduction effectuated under this section.

14 (2) Following such publication, the Department of
15 Revenue shall further reduce the rate of such tax by the
16 amount that equals the difference between the amount of money
17 in the EOF and its accounts on the last day of the fiscal
18 year published in accordance with this subsection and the
19 amount published in connection with the immediately preceding
20 tax reduction effectuated pursuant to this section.

21 (d) Restriction on tax increases.--Once the tax rate for a
22 tax imposed under Subchapter B of Chapter 7 is reduced pursuant
23 to this subsection, that rate of tax may only be increased by a
24 law enacted by the General Assembly.

25 (e) Increments.--Any tax reduction implemented in accordance
26 with this section shall be made in increments of not less
27 than .10%.

28 (f) Definition.--As used in this section, the term
29 "normalized calculated balance" shall mean the rolling 12-month
30 average of the collective balance in the EOF, the ETR Account

1 and the School District Equity Account, as determined each
2 quarter by the board for the eight quarters immediately
3 preceding each quarter.

4 Section 1311. School Equity Capital Construction Fund.

5 (a) Establishment.--The School Equity Capital Construction
6 Fund is established in the State Treasury.

7 (b) Contents.--

8 (1) The School Equity Capital Construction Fund shall
9 consist of:

10 (i) All moneys received pursuant to subsection (f).

11 (ii) All payments received from school districts in
12 connection with any financing provided to such school
13 districts by the authority.

14 (iii) All other moneys received pursuant to this act
15 or any other law or from any other source.

16 (c) Separate fund.--The SECCF shall be separate from all
17 other funds of the Commonwealth and shall not be subject to
18 borrowing by or transfer to the General Fund or any other fund
19 in the State Treasury.

20 (d) Continuing appropriations.--All moneys placed in the
21 SECCF and the interest it accrues are hereby appropriated to the
22 authority on a continuing basis and may be utilized by the
23 authority only for the purposes authorized under this act.

24 (e) Loans to school district.--The authority may utilize
25 moneys in the SECCF to make loans, including interest-free
26 loans, to school districts for projects authorized under section
27 1204.

28 (f) Distribution of funds to SECCF.--

29 (1) Except as otherwise provided in subsection (g), the
30 board, in each fiscal year, may transfer from the Education

1 Operating Fund to the SECCF a sum that shall not be less than
2 25% nor more than 100% of the incremental savings resulting
3 from the Commonwealth assumption of debt pursuant to section
4 1203 as applied to the applicable fiscal year.

5 (2) As used in this section, the term "incremental
6 savings" means the difference between the Commonwealth's debt
7 assumption payments in the first full fiscal year in which
8 such payments are made and the Commonwealth debt assumption
9 payments scheduled for the applicable fiscal year for which
10 the board makes a transfer of funds to the SECCF pursuant to
11 this subsection.

12 (g) Cap on transfers to SECCF.--No payments shall be made to
13 the SECCF pursuant to subsection (f) to the extent that such
14 payments will cause the total amount of money in the SECCF to
15 exceed \$10,000,000,000.

16 (h) Use of SECCF for equity remediation.--The authority may
17 only utilize moneys transferred to the SECCF pursuant to this
18 section to assist school districts that require equity
19 remediation assistance as determined by the authority for the
20 construction of projects authorized under this section and
21 section 1204 and which are approved by voter referendum pursuant
22 to section 1205.

23 (i) Limitation.--No funds shall be transferred from the
24 Education Operating Fund to the SECCF for any fiscal year to the
25 extent that it is necessary to utilize such funds for the
26 purpose of making standard disbursements pursuant to section
27 1304 and for making payments required under section 1307.
28 Section 1312. School Equity Distribution Task Force.

29 (a) Establishment.--A School Equity Distribution Task Force
30 shall be constituted every ten years beginning in 2020 for the

1 purpose of conducting a comprehensive study on the adequacy and
2 equity of existing funding for public education in this
3 Commonwealth or selecting and supervising the conduct of such a
4 study by a qualified person or entity. The task force shall
5 prepare a report, together with recommendations for the General
6 Assembly. Each report shall be completed by November 30 of the
7 immediately following calendar year and shall be a public
8 record.

9 (b) Composition of task force and selection of chairman.--

10 The task force shall consist of five members. The Governor, the
11 President pro tempore of the Senate, the Speaker of the House of
12 Representatives and the Minority Leader of the Senate and the
13 Minority Leader of the House of Representatives shall each
14 appoint one member to the task force. The task force shall
15 select a chairman from its membership.

16 (c) Term of task force.--The task force shall hold its
17 organizing meeting on the date scheduled by the Governor in
18 April of the applicable year and shall complete its report by
19 November 30 of the immediately following calendar year.

20 (d) Notice.--The Governor shall notify the President pro
21 tempore of the Senate, the Speaker of the House of
22 Representatives, the Minority Leader of the Senate and the
23 Minority Leader of the House of Representatives of the
24 organizing meeting for the task force on the date specified in
25 subsection (c) of the applicable year and advise the leaders of
26 the need to make their respective appointments before that date.

27 CHAPTER 15

28 SCHOOL DISTRICT FISCAL EFFICIENCY TOOLS

29 Section 1501. Purpose of chapter.

30 The purpose of this chapter is to provide school districts

1 with the tools necessary to achieve maximum fiscal effectiveness
2 in the performance of their powers and duties and to provide a
3 thorough and efficient system of public education at the lowest
4 possible cost to the citizens of this Commonwealth.

5 Section 1502. Data-driven decision-making technology
6 requirements.

7 (a) General rule.--No later than July 1, 2013, each school
8 district shall enter into a contract with a data-driven
9 decision-making total systems vendor and submit a copy of the
10 contract to the Department of Education.

11 (b) Required elements.--The contract shall include, but not
12 be limited to, the following elements as components of data-
13 driven decision making:

14 (1) The use of large, integrated databases that connect
15 relevant information from other sources into a single
16 accessible format. The databases shall allow the school
17 district, intermediate unit and the Department of Education
18 to look at data from multiple operational systems across
19 multiple dimensions, including time. The system contracted
20 shall have the advantage of importing and analyzing data from
21 a variety of other systems that cannot otherwise communicate
22 with each other.

23 (2) Assessment and diagnostic tools that determine
24 students' mastery levels of standards, powerful assessment
25 solutions, which provide instant feedback for diagnostic use
26 by teachers, and robust data warehousing and analysis
27 solutions which provide historical and longitudinal
28 capabilities for using and managing data effectively for
29 student performance improvement.

30 (3) Curriculum management systems to integrate each

teacher's curriculum planning, lesson plans and grade reporting into a standards-based system.

(4) Instruction and practice systems to align curriculum and instructional resources to State and local standards.

(5) Student information systems primarily concerned with issues of day-to-day student administration.

(6) Data analysis and reporting systems to allow analysis and student performance over time and across variables like district, school, program or classroom. The systems shall include messaging and collaboration technology.

(7) Definitive goals toward increasing the value and return of data-driven decision-making technology investment, project management integrated with State education goals and time lines, requirements specification definitions, the formation of both an implementation team and an evaluation committee and planned verification meetings as a result of contract implementation.

(8) Quality instruction integrated with formative assessment and supported by data-driven action research that informs professional practice and instructional effectiveness.

Section 1503. Certified operations reports.

(a) Duty of school districts to file.--During the fiscal year beginning July 1, 2012, and each fiscal year thereafter, each school district shall submit certified operations reports to the Department of Education. The report shall consist of independent third-party certification that contracts have been or are being completed in school district operations.

(b) Contents.--The certification reports shall state whether:

1 (1) The data-driven decision-making systems installed
2 will provide a robust data architecture that are optimized
3 based on prescribed district data requirements.

4 (2) The systems installed will provide a powerful and
5 easy to use "user reporting and analysis" interface.

6 (3) The systems installed and implemented will
7 facilitate the school district's ability to improve student
8 achievement and organizational efficiency economy; impact the
9 quality of education; are designed with students in mind; and
10 discriminate as to what changes or decisions can be made to
11 have the best outcomes for students.

12 (4) Compliance with State district integration
13 objectives is being satisfied to the extent that the district
14 superintendent has a basis for expecting to report the
15 evidence required in the July 1, 2014, report.

16 Section 1504. Superintendent report.

17 (a) Duty of superintendents to file.--During the fiscal year
18 beginning July 1, 2013, and each fiscal year thereafter, each
19 superintendent shall submit to the Department of Education a
20 comprehensive report for the district, indicating that the
21 intended purposes and goals, performance and accountability
22 technology are being realized in practice, whether data-driven
23 decisions are affecting the district allocations of its budget
24 and funding requests from the Education Operating Fund.

25 (b) Contents.--The superintendent's report shall include,
26 but not be limited to, an administrative and technology
27 assessment of the district's schools' ability to:

28 (1) Generate reports on standards, curriculum,
29 instructional approaches and progress based on the analysis
30 of student and teacher population subgroups which lead to

1 improved instruction approaches.

2 (2) Create a variety of additional reports as needed to
3 analyze information deemed critical to students, teachers and
4 school administration that measure academic progress and meet
5 the requirements of the Department of Education.

6 (3) Provide essential accountability results for
7 district schools and meet prescribed accountability reports
8 for the district as determined by the Department of
9 Education.

10 (4) Evaluate technology progress to drive better
11 decision making for curriculum and other factors affecting
12 student and school achievement and other district goals.

13 (5) Make fiscal budget decisions reallocating the use of
14 moneys from the Education Operating Fund to better prioritize
15 all aspects of each school's and district's educational
16 processes.

17 (6) Analyze factors that impact learning and enable
18 action to help improve student achievement.

19 (7) Document improvement and share information with
20 other schools, districts and State education agencies.

21 Section 1505. Annual performance report.

22 (a) Duty of school district to file.--During the fiscal year
23 beginning July 1, 2013, and each fiscal year thereafter, each
24 school district shall submit to the Department of Education a
25 comprehensive annual report, indicating how the intended
26 purposes and goals of performance and accountability technology
27 are being realized in the administration of the district, and
28 that includes clear case studies, white papers and other
29 documents which indicate that data-driven decisions are
30 affecting the district allocations of its budget and moneys from

1 the Education Operating Fund to achieve acceptable levels of
2 performance as set by peer benchmark or other evaluations.

3 (b) Contents.--The annual performance report shall include,
4 but not be limited to, the following:

5 (1) A continuing report of the prior year's subjects
6 addressed by the superintendent report, amended with changes
7 deemed appropriate by the board of the school district.

8 (2) A demonstration of ways in which the district's
9 data-driven analysis is beginning to enable the evaluation of
10 student progress, ways in which daily results are cycled
11 through a data warehouse to map curriculum for assignments
12 and test results.

13 (3) Actions taken to improve learning by improving
14 instructional approaches with data-driven analysis,
15 integrating and building on existing technology, offering
16 access to learning resources and continuing improvement by
17 tracking performance.

18 (4) A demonstration of the factors that are district-
19 causing trends, identify root causes of performance and
20 analyze the effectiveness of changes initiated in the
21 learning environment.

22 (5) A demonstration of budget decisions directly
23 affected by changes in the districts' efforts to improve
24 student achievement and increase administrative efficiency by
25 focusing on student improvement in a new era of technology
26 application to education.

27 (6) An assessment of the future direction to be taken
28 for continuing performance improvement and advances in data-
29 driven decision making to determine economic efficiencies and
30 financial discipline achievable in budget allocations and

1 spending decisions.

2 CHAPTER 17

3 MISCELLANEOUS PROVISIONS

4 Section 1701. Transitional provision.

5 (a) Sales and use tax.--Notwithstanding the repeal of
6 Article II of the Tax Reform Code of 1971, under section 1704,
7 the department shall have the authority to enforce the
8 collection of taxes imposed for transactions that occur prior to
9 the effective date of this section under former Article II of
10 the Tax Reform Code of 1971. The taxes collected after January
11 1, 2011, regardless of the transaction date, shall be deposited
12 into the Education Operating Fund.

13 (b) Other taxes.--Notwithstanding the repeal of any
14 provision of the Public School Code of 1949, the Local Tax
15 Enabling Act, as applied to school districts or of any other law
16 authorizing school districts to impose taxes, a governing body
17 shall have the authority to enforce, after the effective date of
18 the repeal, the collection of taxes levied and assessed under
19 those former provisions prior to the effective date of the
20 repeal under section 1704(2).

21 Section 1702. Construction.

22 Any and all references in any other act to Article II or any
23 provision in Article II of the act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971, shall be deemed a
25 reference to Chapter 7 or the corresponding provisions in
26 Chapter 7 of this act.

27 Section 1703. 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 1704. Repeals.

11 (a) Intent.--The General Assembly declares that the repeals
12 under subsection (b) are necessary to effectuate this act.

13 (b) Provisions.--The following acts and parts of acts are
14 repealed:

15 (1) Section 631 of the act of March 10, 1949 (P.L.30,
16 No.14), known as the Public School Code of 1949, is repealed.

17 (2) The school per capita tax, which tax is authorized
18 pursuant to section 679 of the Public School Code of 1949, is
19 repealed.

20 (3) Article XXV of the Public School Code of 1949 is
21 repealed insofar as Article XXV authorized Commonwealth
22 payments and reimbursements to school districts that have
23 been incorporated into the standard disbursements formula as
24 provided in section 1304 of this act.

25 (4) Any provision of the Public School Code of 1949 and
26 of any other law relating to the authority of any school
27 district to levy, assess and collect any tax on real property
28 and the power of any city of the first class to levy, assess
29 and collect any tax real property for school purposes is
30 repealed upon the expiration of the respective schedule

1 prescribed in sections 1101 and 1102.

2 (5) Any provision of the act of the Public School Code
3 of 1949 and any other law relating to debt is repealed to the
4 extent that it is inconsistent with this act.

5 (6) Any provision of the Public School Code of 1949 and
6 any home rule charter adopted pursuant thereto is repealed
7 insofar as it is inconsistent with this act.

8 (7) Any provision of the act of August 9, 1963 (P.L.643,
9 No.341), known as the First Class City Public Education Home
10 Rule Act, and any home rule school district charter adopted
11 pursuant thereto is repealed insofar as it is inconsistent
12 with this act.

13 (8) The act of December 31, 1965 (P.L.1257, No.511),
14 known as The Local Tax Enabling Act, is repealed insofar as
15 it authorizes the levy, assessment and collection by school
16 districts of any tax, except a realty transfer tax, as of
17 midnight on December 31, 2011.

18 (9) Article II of the act of March 4, 1971 (P.L.6,
19 No.2), known as the Tax Reform Code of 1971, is repealed.

20 (10) Chapter 13 of the act of June 27, 2006 (1st
21 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,
22 is repealed.

23 (11) All acts and parts of acts that are inconsistent
24 with this act are repealed to the extent of such
25 inconsistency.

26 Section 1705. Applicability.

27 This act shall apply as follows:

28 (1) Section 1704(9) shall apply at midnight on December
29 31, 2010.

30 (2) Chapter 7 shall apply January 1, 2011.

1 Section 1706. Effective date.

2 This act shall take effect as follows:

3 (1) Section 1704(2) and (8) shall take effect at
4 midnight on December 31, 2011.

5 (2) Chapters 3, 4 and 5 shall take effect January 1,
6 2012.

7 (3) The remainder of this act shall take effect
8 immediately.