

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, OCTOBER 1, 2013

SESSION OF 2013

197TH OF THE GENERAL ASSEMBLY

No. 61

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.d.t.

**THE SPEAKER (SAMUEL H. SMITH)
PRESIDING**

PRAYER

HON. MATTHEW E. BAKER, member of the House of Representatives, offered the following prayer:

Thank you, Mr. Speaker.

Let us pray together:

Our Father, remove from us the sophistication of our age and the skepticism that has come like frost to blight our faith and to make it weak. Bring us back to a faith that makes men and women great and strong, the faith that enables us to love and to live, the faith by which we are triumphant, the faith by which we alone can walk with Thee.

Grant us wisdom to do Your will as we serve others and You in spirit and in truth and in humility. We pray for return of that simple faith, that old-fashioned faith that made strong and great the homes of our ancestors who built this good land and who in building left us our heritage.

In the strong name of Jesus, our Lord, we pray. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Monday, September 30, 2013, will be postponed until printed.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 681, PN 768

By Rep. CAUSER

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, repealing provisions relating to powers of waterways patrolmen.

GAME AND FISHERIES.

HB 744, PN 846

By Rep. METCALFE

An Act amending Title 65 (Public Officers) of the Pennsylvania Consolidated Statutes, in lobbying disclosure, further providing for prohibited activities, for penalties and for registration filing system.

STATE GOVERNMENT.

HB 1053, PN 1275

By Rep. MARSICO

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in judicial boards and commissions, authorizing the Pennsylvania Board of Law Examiners to obtain criminal history record checks.

JUDICIARY.

HB 1144, PN 1402

By Rep. CAUSER

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, in preliminary provisions, further providing for definitions; and, in special licenses and permits, further providing for disabled person permits.

GAME AND FISHERIES.

HB 1296, PN 2422 (Amended)

By Rep. MARSICO

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for burglary.

JUDICIARY.

HB 1357, PN 2423 (Amended)

By Rep. MARSICO

An Act amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for impersonating a public servant and for visual and audible signals on emergency vehicles.

JUDICIARY.

HB 1584, PN 2166

By Rep. CAUSER

An Act amending Titles 30 (Fish) and 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for powers and duties of waterways conservation officers and deputies and for powers and duties of enforcement officers.

GAME AND FISHERIES.

SB 648, PN 1420 (Amended)

By Rep. CAUSER

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, in enforcement, further providing for liability for actions of others.

GAME AND FISHERIES.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1318 By Representatives CUTLER, DELISSIO, BENNINGHOFF, GERGELY, LUCAS, MILLARD, SAYLOR, BAKER, V. BROWN, MIRABITO, MUNDY, METZGAR, CALTAGIRONE, COHEN, MAHONEY, BARRAR, OBERLANDER, FREEMAN, D. COSTA, WATSON, MURT, QUINN, PETRI, MILNE, EVANKOVICH and EVERETT

An Act amending the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law, providing for the definition of "certified registered nurse anesthetists"; and providing for certified registered nurse anesthetists.

Referred to Committee on PROFESSIONAL LICENSURE, October 1, 2013.

No. 1720 By Representatives V. BROWN, CRUZ, THOMAS and COHEN

An Act amending the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, providing for screening of certain applicants.

Referred to Committee on URBAN AFFAIRS, October 1, 2013.

No. 1728 By Representatives SACONE, READSHAW, REESE, STERN, KAUFFMAN, BLOOM, HAGGERTY, MIRANDA, JAMES, ENGLISH, V. BROWN, METCALFE, BAKER, SANKEY, TALLMAN, BENNINGHOFF, SONNEY, MARSHALL, SAYLOR, SWANGER, CALTAGIRONE, MALONEY, ROCK, GROVE, HAHN and MICOZZIE

An Act providing for the display of the national motto "In God We Trust" in classrooms and other areas in public school buildings.

Referred to Committee on EDUCATION, October 1, 2013.

No. 1729 By Representatives HAGGERTY, SWANGER, HANNA, GAINEY, D. MILLER, ROZZI, COHEN and FLYNN

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in general provisions relating to home rule and optional plan government, further providing for limitation on municipal powers.

Referred to Committee on LOCAL GOVERNMENT, October 1, 2013.

No. 1733 By Representatives MOUL, BIZZARRO, MUNDY, DAVIS, MILLARD, TRUITT, TALLMAN, READSHAW, R. MILLER, KAUFFMAN, C. HARRIS, SWANGER, MILNE, ROCK, WATSON, CALTAGIRONE, GILLEN, D. COSTA and MURT

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for homicide by vehicle while driving under influence.

Referred to Committee on JUDICIARY, October 1, 2013.

No. 1734 By Representatives OBERLANDER, AUMENT, R. BROWN, CLYMER, GINGRICH, GROVE, LUCAS, MALONEY, MILLARD, R. MILLER, ROCK, ROZZI, SONNEY, SWANGER and TALLMAN

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in interscholastic athletics accountability, further providing for department duties and providing for expiration.

Referred to Committee on EDUCATION, October 1, 2013.

SENATE MESSAGE

RECESS RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate,
September 30, 2013

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Senate recesses this week, it reconvene on Tuesday, October 15, 2013, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the House of Representatives recesses this week, it reconvene on Tuesday, October 15, 2013, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,
Will the House concur in the resolution of the Senate?
Resolution was concurred in.
Ordered, That the clerk inform the Senate accordingly.

LEAVES OF ABSENCE

The SPEAKER. The Speaker turns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. Mark KELLER, from Perry County for the day; the gentleman, Mr. SCAVELLO, from Monroe County for the day; and the lady, Mrs. Rosemary BROWN, from Monroe County for the day. Without objection, the leaves will be granted.

The Speaker recognizes the minority whip, who requests a leave of absence for the gentleman, Mr. FREEMAN, from Northampton County for the day; the gentleman, Mr. SAMUELSON, from Northampton County for the day; and the gentleman, Mr. EVANS, from Philadelphia County for the day. Without objection, the leaves will be granted.

MASTER ROLL CALL

The SPEAKER. The Speaker is about to take the master roll call. The members will proceed to vote.

The following roll call was recorded:

PRESENT—193

Adolph	Emrick	Kotik	Petri
Aument	English	Krieger	Pickett
Baker	Evankovich	Kula	Pyle
Barbin	Everett	Lawrence	Quinn
Barrar	Fabrizio	Longietti	Rapp
Benninghoff	Farina	Lucas	Ravenstahl
Bishop	Farry	Mackenzie	Readshaw
Bizzarro	Fee	Maher	Reed
Bloom	Fleck	Mahoney	Reese
Boback	Flynn	Major	Regan
Boyle, B.	Frankel	Maloney	Roae
Boyle, K.	Gainey	Markosek	Rock
Bradford	Galloway	Marshall	Roebuck
Briggs	Gergely	Marsico	Ross
Brooks	Gibbons	Masser	Rozzi
Brown, V.	Gillen	Matzie	Sabatina
Brownlee	Gillespie	McCarter	Saccone
Burns	Goodman	McGeehan	Sainato
Caltagirone	Greiner	McGinnis	Sankey
Carroll	Grell	McNeill	Santarsiero
Causar	Grove	Mentzer	Saylor
Christiana	Hackett	Metcalfe	Schlossberg
Clay	Haggerty	Metzgar	Schreiber
Clymer	Hahn	Miccarelli	Simmons
Cohen	Haluska	Micozzie	Sims
Conklin	Hanna	Millard	Smith
Corbin	Harhai	Miller, D.	Snyder
Costa, D.	Harhart	Miller, R.	Sonney
Costa, P.	Harkins	Milne	Stephens
Cox	Harper	Mirabito	Stern
Cruz	Harris, A.	Miranda	Stevenson
Culver	Harris, J.	Molchany	Sturla
Cutler	Heffley	Moul	Swanger
Daley, M.	Helm	Mullery	Tallman
Daley, P.	Hennessey	Mundy	Taylor
Davidson	Hickernell	Murt	Thomas
Davis	James	Mustio	Tobash
Day	Kampf	Neilson	Toepel
Dean	Kauffman	Neuman	Toohil
Deasy	Kavulich	O'Brien	Truitt
DeLissio	Keller, F.	O'Neill	Turzai
Delozier	Keller, W.	Oberlander	Vereb
DeLuca	Killion	Painter	Vitali
Denlinger	Kim	Parker	Waters
Dermody	Kinsey	Pashinski	Watson
DiGirolamo	Kirkland	Payne	Wheatley
Donatucci	Knowles	Peifer	White
Dunbar	Kortz	Petrarca	Youngblood
Ellis			

ADDITIONS—0

NOT VOTING—0

EXCUSED—9

Brown, R.	Gabler	Godshall	Samuelson
Evans	Gingrich	Keller, M.K.	Scavello
Freeman			

LEAVES ADDED—1

Kortz

LEAVES CANCELED—5

Brown, R.	Keller, M.K.	Samuelson	Scavello
Freeman			

The SPEAKER. One hundred and ninety-three members having voted on the master roll call, a quorum is present.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence of the lady, Mrs. Rosemary Brown, from Monroe County on the floor of the House. Without objection, her name will be added back to the master roll call.

**BILL REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND TABLED**

HB 1718, PN 2399

By Rep. CLYMER

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for online education initiative; and establishing the Online Course Clearinghouse Restricted Account.

EDUCATION.

GUESTS INTRODUCED

The SPEAKER. If I could have the members' attention. I would appreciate your holding the conversations down. I would appreciate your courtesy as I introduce some of the guests that are with us today. Thank you.

Located to the left of the rostrum, we would like to welcome Bob and Kathy Campbell and Bob and Linda Haver. They are here today as guests of Representative Milne. Will our guests please rise. Welcome to the hall of the House.

Also to the left of the rostrum, we would like to welcome representatives from 900 AM WURD, WURD Radio. From there, we have Sara Lomax Reese, president and general manager; Monica Lewis, director of sales and business development; and LiRon Anderson-Bell, director of marketing and digital media. They are here today as guests of Representative Parker. Welcome to the hall of the House. Please rise.

In the rear of the House, we would like to welcome providers and participants of the Lifesharing Program. James Malesky and Judy Webb are Lifesharing service directors; Michele Hickok, Carol Turns, and Rebecca Kreischer are Lifesharing coordinators; and Sarah Shaw is a Lifesharing director for skills. With them today are: Carole Varner and T.K. Kennell, who are Lifesharing providers, with family members Harry Armor, Julio Reyes, and Sarah Perdew. They are here as guests of Representative Murt. Will our guests please rise; over here on the far left. Welcome to the hall of the House.

Also in the rear of the House as guests of Representative O'Neill and Representative Neilson are Julia Sadtler, president of the Pennsylvania branch of the International Dyslexia Association, and Rosette Roth of Decoding Dyslexia Pennsylvania. Will our guests please rise; right under the scone on the right.

Located in the rear of the House, we would like to welcome Danielle List, a senior at the University of Pittsburgh who is interning with Representative Frankel as a part of the School's Institute of Politics Program. Along with her is Gabriel Jimenez

from Representative Frankel's district office. Will our guests please rise; straight back the middle aisle. Welcome to the hall of the House.

And as guests of Representative Vanessa Brown, in the rear of the House, we would like to welcome Native American Nations from various regions of the Commonwealth in celebration of Indigenous Peoples Day on October 5. Will our guests please rise; left center. Welcome to the hall of the House.

Also in the rear of the House, we would like to welcome Eva Haller, chairwoman of the board of directors of Free the Children USA. With her are student advisers and student volunteers at Welsh Valley Middle School in Lower Merion School District. They are here today as guests of Representative McCarter. Will our guests please rise; on the right side.

I would like to invite Representative Santarsiero and Representative Galloway to the rostrum for the purpose of presenting two citations.

KAITLIN FITZPATRICK PRESENTED

The SPEAKER. The Speaker recognizes the gentleman from Bucks County, Mr. Galloway, for the purpose of presenting a citation.

Mr. GALLOWAY. Thank you, Mr. Speaker.

I have the pleasure again to rise and recognize a State champion from my district, and in this case, Kaitlin Fitzpatrick is not just a State champion but a national runner-up as well.

On March 10 at Susquehanna Township High School, Kaitlin, who was then a junior and now a senior at my alma mater, Pennsbury High School, won the 112-pound weight class at the Pennsylvania Girls 2013 Folkstyle State Championship.

The SPEAKER. Will the gentleman suspend one minute, please. I apologize for the interruption.

It is really pretty loud here. I would appreciate if you would kindly hold the conversations down. I would appreciate your courtesy. Thank you.

The gentleman may proceed.

Mr. GALLOWAY. Thank you, Mr. Speaker.

Kaitlin Fitzpatrick is someone who is a very, very unique individual and very deserving of your attention, so I thank you very much.

On March 10 at Susquehanna Township High School, Kaitlin, who was then a junior and now a senior at Pennsbury High School, won the 112-pound weight class at the Pennsylvania Girls 2013 Folkstyle State Championship. This is the de facto State championship for girls wrestling in the Commonwealth.

In May, Kaitlin's season continued at the FILA Body Bar Women's National Championship in Lakeland, Florida. She competed at 108 pounds in the cadet freestyle division for 15- to 17-year-olds and finished second. When all was said and done, Kaitlin qualified for the U.S. National Team and spent part of her summer training at the United States Olympic Training Center in Colorado Springs, Colorado.

Joining us today in the hall of the House, or in the back of the House, is her family, Kaitlin's family: her mother, Michele, there you go; her father, Peter; and her brother, Colin.

It is always good to see my friends from Pennsbury High School, and I would like to congratulate them as well because a family structure is an important part to anyone's success. Please

join me in congratulating U.S. National Team member, State champion, and national runner-up Kaitlin Fitzpatrick. Thank you very much.

The SPEAKER. The Speaker thanks the gentleman.

The House will be at ease for a moment.

The House will come to order.

MORRISVILLE LITTLE LEAGUE BASEBALL TEAM PRESENTED

The SPEAKER. The Speaker recognizes the gentleman from Bucks County, Mr. Santarsiero, for the purpose of presenting a citation.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

It is a pleasure to rise today to honor the State Champion Morrisville Little League 10-11-year-old Baseball Team. On August 1 in Mansfield, Morrisville defeated Montoursville 10 to 3 in the championship game to give the league its first State title since 1955.

Mr. Speaker, I often have had the privilege to come before this House to honor local teams, and very frequently when I do, I recount the story about how they overcame adversity or came from behind to win. There is no question that this team had a lot of heart and many long hours of practice to get to where they were, but this team truly dominated from day one. They had a record of 11 wins and 1 loss to get to the State title run, and during that 12-game span, Morrisville batted .441 as a team, outscored its opponents 149 to 57, and hit 28 – that is right, 28 – home runs. Its only postseason loss was in extra innings to Lionsville in the second round of the playoffs, and Morrisville responded with a 3-0 victory in the very next round. As a youth baseball coach myself, I can tell you those are pretty impressive stats, and I am very confident that this is a team that we will be greeting again here in the very near future after their success in the next season.

Joining with Representative Galloway and me today at the Speaker's podium are the following team members: Killian Brennan, Cory DiMario, Owen Sorrentino, Alexander Borda, and Devin Sweeney. In the back of the hall of the House, we have the other team members, which include Tyler Babel, William Binder, Sam Spadea, Stephen Cianci, and Jorden Sesar. Unable to attend were Gunnar Gillen and Joseph Martell. The coaching staff – manager Tony DiMario, and assistant coaches are Matt Babel, Nick Spadea, and Bill Tuite – are also with us here today. Gentlemen, if you will stand as well.

I want to acknowledge the parents too. We have a few parents with us today, and I would ask that you would stand as well because any of us who have ever coached in youth sports or have worked with youth organizations generally know that the success of those teams, the success of those organizations, depends in very large part on the support of the families that are involved, and I know the parents of this team were very involved and supportive, and I would like to thank you for coming out today and your support of your sons' team.

So, Mr. Speaker, I would ask the entire House to join me in saluting the State champions from Morrisville, Pennsylvania. Congratulations, guys.

The SPEAKER. The Speaker thanks the gentleman.

Does the gentleman seek further recognition?

Mr. SANTARSIERO. Yes, Mr. Speaker. If I may, I just want to add one comment.

Having been to the charity softball game yesterday, I was walking wounded, and I will say that a number of us from Bucks County will be participating next year, and hopefully the East will improve its score. I want to say that perhaps some of the fielders, particularly the first baseman for the East, could learn a lesson or two from the Morrisville Little League Team.

The SPEAKER. It is funny you would bring that up, because as you were recounting the significant success this team had, I was thinking it sounded like the shellacking the West laid on the East last night.

The gentleman is not recognized any further.

The House will be at ease for a moment.

The House will come to order.

FILMING PERMISSION

The SPEAKER. The Speaker grants media access to the House floor to Solomon Williams of Kat With The Hat Photography for still photos and videotaping with audio.

UNCONTESTED CALENDAR

RESOLUTIONS PURSUANT TO RULE 35

Ms. V. BROWN called up **HR 80, PN 708**, entitled:

A Resolution designating the month of October 2013 as "Crime Prevention Month" in Pennsylvania.

* * *

Mr. NEILSON called up **HR 430, PN 2302**, entitled:

A Resolution designating the month of October 2013 as "Dyslexia Awareness Month" in Pennsylvania.

* * *

Mr. KRIEGER called up **HR 431, PN 2303**, entitled:

A Resolution designating October 6, 2013, as "Demi Brae Cuccia Day" in Pennsylvania.

* * *

Mr. CALTAGIRONE called up **HR 433, PN 2305**, entitled:

A Resolution designating the month of October 2013 as "Dwarfism Awareness Month" in Pennsylvania.

* * *

Mr. McCARTER called up **HR 438, PN 2322**, entitled:

A Resolution honoring the Free The Children Campaign and recognizing the exceptional work of the youth involved in this campaign in this Commonwealth and around the world who seek to find effective solutions to societal problems and issues for the benefit of other people.

* * *

Mrs. SWANGER called up **HR 440, PN 2328**, entitled:

A Resolution commemorating the 200th anniversary of Lebanon County.

* * *

Ms. V. BROWN called up **HR 446, PN 2341**, entitled:

A Resolution congratulating and recognizing Pennsylvania's American Indian peoples and communities and recognizing the first Saturday in October of every year as "Indigenous Peoples Day" in Pennsylvania.

* * *

Ms. DELOZIER called up **HR 454, PN 2349**, entitled:

A Resolution recognizing the month of October 2013 as "Domestic Violence Awareness Month" in Pennsylvania.

* * *

Mr. GOODMAN called up **HR 459, PN 2362**, entitled:

A Resolution designating the month of October 2013 as "Pennsylvania Fire Prevention Month," observing the week of October 6 through 12, 2013, as "National Fire Prevention Week," urging all Pennsylvanians to protect their homes and families by heeding the important safety messages of Fire Prevention Week 2013, and to support the many public safety activities and efforts of Pennsylvania's fire and emergency services and recognizing the efforts of all firefighters, fire service agencies and other first responders in preventing and combating fire dangers.

* * *

Mr. MATZIE called up **HR 463, PN 2373**, entitled:

A Resolution designating the month of October 2013 as "Wine, Wineries and Grapes Month" in Pennsylvania.

* * *

Mr. MATZIE called up **HR 464, PN 2374**, entitled:

A Resolution recognizing the week of October 15 through 21, 2013, as "Credit Union Week" in Pennsylvania.

* * *

Mr. SAYLOR called up **HR 469, PN 2384**, entitled:

A Resolution designating October 10, 2013, as "Put the Brakes on Fatalities Day" in Pennsylvania.

* * *

Mr. GRELL called up **HR 471, PN 2386**, entitled:

A Resolution designating the week of October 20 through 26, 2013, as "Pro Bono Week" in Pennsylvania.

* * *

Mr. CRUZ called up **HR 472, PN 2387**, entitled:

A Resolution observing September 15 through October 15, 2013, as "Hispanic Heritage Month" in Pennsylvania.

* * *

Mr. MURT called up **HR 474, PN 2388**, entitled:

A Resolution designating the month of October 2013 as "Lifesharing Awareness Month" in Pennsylvania.

* * *

Mr. DeLUCA called up **HR 475, PN 2402**, entitled:

A Resolution designating the month of October 2013 as "Italian Heritage Month" in Pennsylvania.

* * *

Mrs. PARKER called up **HR 478, PN 2405**, entitled:

A Resolution recognizing and congratulating 900 AM WURD Radio on the occasion of its tenth anniversary as "The Voice of the Community."

On the question,
Will the House adopt the resolutions?

The following roll call was recorded:

YEAS—194

Adolph	Ellis	Kotik	Petri
Aument	Emrick	Krieger	Pickett
Baker	English	Kula	Pyle
Barbin	Evankovich	Lawrence	Quinn
Barrar	Everett	Longietti	Rapp
Benninghoff	Fabrizio	Lucas	Ravenstahl
Bishop	Farina	Mackenzie	Readshaw
Bizzarro	Farry	Maher	Reed
Bloom	Fee	Mahoney	Reese
Boback	Fleck	Major	Regan
Boyle, B.	Flynn	Maloney	Roae
Boyle, K.	Frankel	Markosek	Rock
Bradford	Gainey	Marshall	Roebuck
Briggs	Galloway	Marsico	Ross
Brooks	Gergely	Masser	Rozzi
Brown, R.	Gibbons	Matzie	Sabatina
Brown, V.	Gillen	McCarter	Saccone
Brownlee	Gillespie	McGeehan	Sainato
Burns	Goodman	McGinnis	Sankey
Caltagirone	Greiner	McNeill	Santarsiero
Carroll	Grell	Mentzer	Saylor
Causar	Grove	Metcalfe	Schlossberg
Christiana	Hackett	Metzgar	Schreiber
Clay	Haggerty	Miccarelli	Simmons
Clymer	Hahn	Micozzie	Sims
Cohen	Haluska	Millard	Smith
Conklin	Hanna	Miller, D.	Snyder
Corbin	Harhai	Miller, R.	Sonney
Costa, D.	Harhart	Milne	Stephens
Costa, P.	Harkins	Mirabito	Stern
Cox	Harper	Miranda	Stevenson
Cruz	Harris, A.	Molchany	Sturla
Culver	Harris, J.	Moul	Swanger
Cutler	Heffley	Mullery	Tallman
Daley, M.	Helm	Mundy	Taylor
Daley, P.	Hennessey	Murt	Thomas
Davidson	Hickernell	Mustio	Tobash
Davis	James	Neilson	Toepel

Day	Kampf	Neuman	Toohil
Dean	Kauffman	O'Brien	Truitt
Deasy	Kavulich	O'Neill	Turzai
DeLissio	Keller, F.	Oberlander	Vereb
DeLozier	Keller, W.	Painter	Vitali
DeLuca	Killion	Parker	Waters
Denlinger	Kim	Pashinski	Watson
Dermody	Kinsey	Payne	Wheatley
DiGirolamo	Kirkland	Peifer	White
Donatucci	Knowles	Petrarca	Youngblood
Dunbar	Kortz		

NAYS—0

NOT VOTING—0

EXCUSED—8

Evans	Gabler	Godshall	Samuelson
Freeman	Gingrich	Keller, M.K.	Scavello

The majority having voted in the affirmative, the question was determined in the affirmative and the resolutions were adopted.

STATEMENT BY MR. MURT

The SPEAKER. The Speaker recognizes the gentleman from Montgomery County, Mr. Murt, under unanimous consent relative to one of the resolutions just adopted.

Mr. MURT. Mr. Speaker, thank you.

Mr. Speaker, mentoring is the backbone of any productive community. Mentors educate our children, teach job skills, and share a lifetime of experience with new generations. In many ways, you can judge a community's quality of life based on the strength of those who give back to others. In that way, the Lifesharing Program is an invaluable resource to our community. The mentors in the program open their hearts and their homes to those with developmental disabilities, and when a mentor takes in and cares for an adult with special needs, they give something that money cannot buy — a helping hand, a home, and a loving family.

Through their actions, these mentors show that we all matter and we all deserve to live life to the fullest. They are more than home providers. They are teachers, advocates, friends, and family. For the person being mentored, Lifesharing offers the opportunity to live in the community of their choice. By sharing their mentor's home, individuals are able to take part in the everyday activities of family life while still receiving the support they need. They can socialize with family and friends, manage household chores, discover new hobbies, and learn new skills to the best of their abilities.

Lifesharing helps individuals lead fuller, more independent lives in the communities they love. While there are many programs that offer mentoring services, Lifesharing is a sterling example of how to do it more efficiently and with greater satisfaction. And as the need for these services increases, it is critical that Lifesharing continues to stand as an example of how to improve the lives of those who cannot help themselves.

Mr. Speaker, I am grateful to my colleagues for designating October as "Lifesharing Awareness Month." Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

STATEMENT BY MR. McCARTER

The SPEAKER. The Speaker recognizes the gentleman from Montgomery County, Mr. McCarter, under unanimous consent relative to one of the resolutions just adopted.

Mr. McCARTER. Thank you, Mr. Speaker.

I rise today along with Representative Mary Jo Daley, Representative Pam DeLissio, and Representative Tim Briggs to honor the Free the Children Campaign and the youth volunteers and leaders who are involved in this campaign both here in our Commonwealth and throughout the world.

For those members who may not be familiar with this organization, the Free the Children Campaign began in Canada in 1995 when 12-year-old Craig Kielburger read a newspaper article about the forced childhood labor and subsequent murder of a boy named Iqbal in Pakistan. The article led Craig to a now lifelong fight in battling crimes against children worldwide.

Today the campaign delivers innovative programming to more than 4,000 youth groups and hundreds of thousands of young people in Canada, the United States, and the United Kingdom. Moreover, the organization works in 45 countries and has built more than 650 schools and classrooms in developing regions, providing education to more than 55,000 children every day. In addition, as a result of the campaign's Adopt a Village program, more than 1 million people have been provided with clean water, health care, and sanitation; 30,000 women are economically self-sufficient; and \$16 million in medical supplies have been shipped around the world. The Free the Children Campaign inspires, empowers, and enables our youth to be actively involved in helping to find effective solutions to numerous societal problems and issues around the world.

As an international charity and educational partner, Free the Children works both domestically and internationally with school boards, schools, teachers, families, and youth, providing an array of services that educate and engage young people to make a positive difference in the world. One such school, Mr. Speaker, is Welsh Valley Middle School in the Lower Merion School District, where I am proud to say that I taught high school for 35 years and is located in Representative Pam DeLissio's district. And across the street is part of the district where the students live who are here with us today, in both Representative Briggs's and Representative Daley's districts.

I am thankful that we are so very fortunate to have them here today for this resolution along with their adviser, Nancy Ferguson, and also other guests who are here, Eva Haller, who is the chairwoman of the board of directors of Free the Children USA, along with her husband, Yoel Haller, and Martha McGeary Snider, a good friend and supporter of the organization.

I thank the Speaker for allowing me to introduce the guests today on the floor and would hope that the members would recognize them as well. Thank you so much, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

STATEMENT BY MS. BROWN

The SPEAKER. The Speaker recognizes the lady from Philadelphia County, Ms. Vanessa Brown, under unanimous consent relative to one of the resolutions just adopted.

Ms. V. BROWN. Thank you, Mr. Speaker.

Thank you for this time to celebrate the true Pennsylvanians. Before its founding, Pennsylvania was inhabited by indigenous people for at least 12,000 years. These tribes had established their own culture dating back to the late stages of the Stone Age when William Penn came upon them. The numerous nations, including the Lenape, Cherokee, Susquehanna, Unami, Minsi, Minquas, Erie, Muscogee, Mohawk, Huron, Allegany, Shawnee, Susquehannock, Oneida, Onondaga, Cayuga, Seneca, Wyandot, Chippewa, Mississauga, and Ottawa Indians.

I am honored to be able to recognize the members of the indigenous community who took time to come here today. According to the 2010 U.S. Census, there are approximately 25,000 Pennsylvania residents who claim Native American ancestry, including 4,000 in Philadelphia alone. Their rich history and ancestral legacy lives on through the names of rivers, lakes, dams, bridges, State parks and forests, townships, counties, such as Delaware, Lehigh, Susquehanna, Codorus, Lackawanna, Neshaminy, Shikellamy, Susquehannock, Allegheny, Wallenpaupack, Wissahickon, Manayunk, and Erie, Cayuga – there are so many; it is such a blessing – Seneca, Genesee, and there are so many others I will not try to name today, and they are all of indigenous people's regions.

Evidence of their long history abounds throughout Pennsylvania, from the ruins down the Susquehanna in Washington Borough to the burial mounds in McKees Rocks. In fact, artifacts believed to be more than 10,000 years old have been uncovered in the Indian caverns of Tyrone.

Thank you, Mr. Speaker and my colleagues, for joining me today in honoring the original Pennsylvanians and giving special thanks to those who came here today to celebrate with their attendance. Thank you, Mr. Speaker. The SPEAKER. Will our guests please rise a second time.

The Speaker thanks the lady.

STATEMENT BY MRS. PARKER

The SPEAKER. The Speaker recognizes the lady from Philadelphia County, Mrs. Parker, under unanimous consent relative to one of the resolutions just adopted.

Mrs. PARKER. Thank you, Mr. Speaker.

Mr. Speaker, I rise to thank my colleagues for their unanimous vote on HR 478, acknowledging and celebrating one of our Commonwealth's most valuable assets. This year marks the 10th anniversary of WURD Radio Station, 900 AM. And for the record, you should note that WURD 900 AM is Pennsylvania's only African-American owned and operated talk radio station. But WURD is more than just a radio station, Mr. Speaker. In fact, it is actually an incubator for many of the nation's most proactive and innovative minds working within the global community to participate in an objective discussion in identifying resolutions that will enhance the quality of life for residents not just in Philadelphia and not just across Pennsylvania but across the nation and the world.

Many of us know that the station's mission, and if you have ever listened to it and you have heard the tag line, you will hear them note that they are "on-air, online and in the community." It has proven to be successful through the selling out of quarterly symposiums, monthly educational workshops geared toward advancing self-sufficiency as well as revitalizing and sustaining our communities.

Let me note that it is also our great honor to recognize that one of our own State Representatives, and that is Louise Williams Bishop, who is also Rev. Louise Williams Bishop, who is a radio icon whose career spans more than five decades long, is the host of the gospel in the morning radio program.

In addition to that, for my colleagues, because sometimes it is great to put a name with an issue so that we will gain some context of our discussion, I want to note some of the most influential minds who have called WURD home. There is Cody Anderson, the gentleman who was the creator in Philadelphia, and for those of you who are from southeastern Pennsylvania, you will remember something called Unity Day that used to take place in Philadelphia, but it also represented the entire southeastern Pennsylvania, he was the founder; Kernie Anderson, who was the former general manager of WDAS Radio Station, worked there and has been one of my personal mentors; the late "Dr." Reggie Bryant; the late Dr. Frank Wyatt; Dr. Lucille Ijoy; another name you will know, Kenny Gamble, one of the dynamic duo that runs Philadelphia International Records and brought Philadelphia, Pennsylvania, the nation, and the world some of the grandest music that many of us still bop our heads to and sing those songs; Vikki Leach from Delaware County; Nick Taliaferro; Rev. Al Sharpton; Pat Iding; Sharmain Matlock-Turner; Renee Amore; and for the Rosses and the Boyles and the other Harvard guys here today, even Dr. Charles Ogletree calls WURD Radio Station home.

So let me thank Sara Lomax Reese, Monica Lewis, and LiRon Anderson-Bell for joining us today to represent WURD and actually giving us the honor and opportunity to honor WURD's achievements and commitment as the active voice of the community for all listeners. And I might just add – and, Sara, you will have to correct me later on if I am not correct – but I do think that Sara is the first president and general manager of WURD Radio Station. And to the ladies in this audience, you know, estrogen has a way of helping things move along. So it has been growing.

And I also want to note that WURD's founder, who could not be here today, is Dr. Walter Lomax. Now, some of you are saying, wait a minute; I have heard that name, Dr. Walter Lomax. If you are thinking about the famous picture of Dr. Martin Luther King, Jr., being seen by a doctor in the city of Philadelphia during one of his speeches, after one of his speeches, yes, that doctor was Dr. Walter Lomax. He could not be here today, but we want to thank him and his family for their unwavering support and their support of the African-American community.

If there is anyone listening, there is one matter of unfinished business that the Philly delegation has, and that is we need to have a show on WURD Radio Station providing a monthly legislative update about what is happening here in Harrisburg so people who cannot get here will know what is going on. So that is a plea for anybody who is willing with the opportunity to help us. Thank you all, and thank you all for being here.

The SPEAKER. The Speaker thanks the lady.

STATEMENT BY MR. KRIEGER

The SPEAKER. The Speaker recognizes the gentleman from Westmoreland County, Mr. Krieger, under unanimous consent relative to one of the resolutions just adopted.

Mr. KRIEGER. Thank you, Mr. Speaker.

Everyone in this chamber recognizes that strong families are the foundation of every safe and healthy community. One manifestation of the stress in our families and in society at large has been an increase in teen dating violence. Teen dating violence patterns are similar to adult domestic violence, with widespread effects on individuals, families, businesses, and our communities.

One such victim was Demi Brae Cuccia. Demi was a beautiful 16-year-old girl just beginning on her journey of life. That journey, however, was cut short by a brutal act. On August 15, 2007, Demi was fatally stabbed in her Monroeville home by her then ex-boyfriend.

Demi was the daughter of Gary and Jodi Cuccia, who are honoring her memory through the establishment of the Demi Brae Cuccia Awareness Organization. In their continuing grief, Gary and Jodi keep her memory alive by working tirelessly, offering school programs and other resources to teach parents and children about dating violence and hopefully to prevent other parents from living the horror of their experience.

HR 431 designates October 6, 2013, as "Demi Brae Cuccia Day" in Pennsylvania and is being offered to remember Demi and to raise awareness of the tragic impact of teen dating violence on the health and well-being of our families, children, and communities. I want to thank the members for their unanimous support of this resolution honoring the memory of Demi Brae Cuccia. Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

STATEMENT BY MRS. SWANGER

The SPEAKER. The Speaker recognizes the lady from Lebanon County, Mrs. Swanger, under unanimous consent relative to one of the resolutions just adopted.

Mrs. SWANGER. Thank you, Mr. Speaker.

Colleagues, Representative Gingrich and I are honored to bring to the floor today HR 440, which recognizes the 200th anniversary of Lebanon County, Pennsylvania. Lebanon County was formed in 1813 by an act of the legislature when portions of Dauphin and Lancaster Counties were combined. It was named after the much older Lebanon Township, which had been incorporated in 1729. When European settlers first arrived in the 1720s, what is now Lebanon County was actually part of Bucks County. The settlers noted the vast swaths of cedar forests, which reminded them of the Biblical stories of the cedars of Lebanon, which were used by King Solomon to construct the original temple in Jerusalem. Ever since that time, Lebanon County has been known for its fertile land and pastoral settings.

Lebanon County "...has been called, not inappropriately, the Garden Spot of Pennsylvania; and surely no one who has ever passed through it can wonder at the designation. Lying between the far-famed Blue Mountain on the North, and the South Mountain on the South – watered by the Swatara, Quittapahilla, Tulpehocken and many other streams, with a surface somewhat rolling, and beautifully diversified, it is indeed a farmer's 'Paradise.'"

Today Lebanon County is home of more than 130,000 residents and covers more than 360 square miles. It is the headquarters of the Pennsylvania National Guard and home of the Lebanon Veterans Medical Center. It is famous for the

production of a key ingredient of one of America's favorite classic sandwiches, Lebanon bologna. We are proud to be the home of Seltzer's Bologna and Keystone/Weaver Bologna Co., also the Wertz Candies company and Shuey's Pretzels.

I ask that you please join me in celebrating the bicentennial of Lebanon's 47th county and my home, Lebanon County, and thank you for supporting this resolution.

The SPEAKER. The Speaker thanks the lady.

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. The Speaker recognizes the gentleman from Philadelphia County, Mr. Neilson, under unanimous consent relative to one of the resolutions just adopted.

Mr. NEILSON. Thank you, Mr. Speaker.

I would like to thank the members for their support making October "Dyslexia Awareness Month" and submit my written comments for the record.

The SPEAKER. The Speaker thanks the gentleman.

Mr. NEILSON submitted the following remarks for the Legislative Journal:

Thank you, Mr. Speaker.

I would like to thank you all for your support of the resolution designating October as "Dyslexia Awareness Month" in Pennsylvania. I would also like to take this opportunity to thank Representative O'Neill for his assistance in crafting this resolution.

Dyslexia is a condition that many people know something about, but unless you or someone you love is living with the condition, it is hard to understand the type of impact it can have on an individual and on a family. The condition, sometimes referred to as a developmental reading disorder, affects anywhere from 5 to 10 percent of the population. If it goes unrecognized, students with dyslexia may become frightened, frustrated, and angry. They tend to think of themselves as "dumb" and grow to dislike school and reading. They perceive themselves as "different" from their classmates, which can cause them to further alienate themselves.

Without help, dyslexic children can lose their self-esteem; they can get angry at the educational institution that has allowed them to fall through the cracks, which may eventually cause them to drop out. No child should be abandoned by our system because of how he or she was born. No child should think less of himself because the right tools were not made available to him.

That is why I am grateful for today's consideration of my resolution. I truly believe that awareness is the first step to fixing any problem. If we do not understand the problem, then what chance do we have at figuring out the solution?

That is why I believe resolutions like this one are so valuable. Dyslexia poses a problem to our State. It poses a problem to our families and to our schools. I think we have taken the first steps to realizing a problem and fixing it, and I thank you for that, but we still have work to do.

As you may already know, the Pennsylvania Dyslexia Legislative Coalition is here today to show their support for this resolution, and to raise awareness about dyslexia in Pennsylvania. They are inviting anyone who is interested to stand up at a microphone and declare to the world that they, or someone they love, are battling dyslexia.

I will be joining them later today in the Capitol Rotunda, to stand in solidarity with my youngest son, Ryan, who was diagnosed with dyslexia last year.

I encourage all of you to attend the rally, and I hope some of you will join me at the microphone too.

Once again, thank you for your support, and I hope to see you at the rally today.

Thank you, Mr. Speaker.

STATEMENT BY MR. DeLUCA

The SPEAKER. The Speaker recognizes the gentleman from Allegheny County, Mr. DeLuca, under unanimous consent relative to one of the resolutions just adopted.

Mr. DeLUCA. Thank you, Mr. Speaker.

I want to thank the members for voting for HR 475, designating the month of October as "Italian Heritage Month," and as the chairman of the Pennsylvania Legislative Italian-American Caucus, I want to thank them on behalf of my caucus members.

Mr. Speaker, Italian heritage is richly entwined in the history of our country. The heritage did not begin and end with the well-known voyage of Christopher Columbus, but continues to be in the present day in fields of exploration, science, arts, literature, as well as business and development. Italians and those of Italian descent have made remarkable contributions to our nation. The list is quite long.

American history is replete with citizens of Italian heritage, including the signing of the Declaration of Independence and the formation of the United States Constitution. Italian-Americans have fought in every war from the Revolutionary War to recent conflicts and have served with distinction, including several Congressional Medal of Honor recipients.

Italian-Americans were instrumental in building and developing many of our major cities. Italian immigrants built bridges and roads that we use today. Several major United States universities have been founded and directed by Italian-Americans, and valuable discoveries in science and medicine are credited to those of Italian heritage as well.

Therefore, I want to thank the House for their unanimous vote on HR 475. Thank you, Mr. Speaker.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence of the gentleman from Northampton County, Mr. Freeman, on the floor of the House. Without objection, his name will be added back to the master roll call.

CALENDAR

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 974, PN 2176**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for public hearing and vote on acquisition of automatic external defibrillators.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—193

Adolph	Ellis	Knowles	Petri
Aument	Emrick	Kortz	Pickett
Baker	English	Kotik	Pyle
Barbin	Evankovich	Krieger	Quinn
Barrar	Everett	Kula	Rapp
Benninghoff	Fabrizio	Lawrence	Ravenstahl
Bishop	Farina	Longietti	Readshaw
Bizzarro	Farry	Lucas	Reed
Bloom	Fee	Mackenzie	Reese
Boback	Fleck	Maher	Regan
Boyle, B.	Flynn	Mahoney	Roae
Boyle, K.	Frankel	Major	Rock
Bradford	Freeman	Maloney	Roebuck
Briggs	Gainey	Markosek	Ross
Brooks	Galloway	Marshall	Rozzi
Brown, R.	Gergely	Marsico	Sabatina
Brown, V.	Gibbons	Masser	Saccone
Brownlee	Gillen	Matzie	Sainato
Burns	Gillespie	McCarter	Sankey
Caltagirone	Goodman	McGeehan	Santarsiero
Carroll	Greiner	McGinnis	Saylor
Causar	Grell	McNeill	Schlossberg
Christiana	Grove	Mentzer	Schreiber
Clay	Hackett	Miccarelli	Simmons
Clymer	Haggerty	Micozzie	Sims
Cohen	Hahn	Millard	Smith
Conklin	Haluska	Miller, D.	Snyder
Corbin	Hanna	Miller, R.	Sonney
Costa, D.	Harhai	Milne	Stephens
Costa, P.	Harhart	Mirabito	Stern
Cox	Harkins	Miranda	Stevenson
Cruz	Harper	Molchany	Sturla
Culver	Harris, A.	Moul	Swanger
Cutler	Harris, J.	Mullery	Tallman
Daley, M.	Heffley	Mundy	Taylor
Daley, P.	Helm	Murt	Thomas
Davidson	Hennessey	Mustio	Tobash
Davis	Hickernell	Neilson	Toepel
Day	James	Neuman	Toohil
Dean	Kampf	O'Brien	Truitt
Deasy	Kauffman	O'Neill	Turzai
DeLissio	Kavulich	Oberlander	Vereb
Delozier	Keller, F.	Painter	Vitali
DeLuca	Keller, W.	Parker	Waters
Denlinger	Killion	Pashinski	Watson
Dermody	Kim	Payne	Wheatley
DiGirolamo	Kinsey	Peifer	White
Donatucci	Kirkland	Petrarca	Youngblood
Dunbar			

NAYS—2

Metcalfe Metzgar

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 1090, PN 2005**, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for protective custody of newborn children in the areas of criminal liability, child protective services and newborn protection.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the gentleman from Dauphin County, Mr. Marsico, is recognized on the bill on final passage.

Mr. MARSICO. Thank you, Mr. Speaker.

I rise to commend and support Representative Youngblood to amend HB 1090, the Pennsylvania safe haven law. The safe haven law is very near and dear to my heart. In fact, back in 2001, I sponsored the original bill, HB 1582. I wrote this bill in response to the tragic death of Baby Mary, who was murdered and left in a dumpster in Dauphin County.

I am very happy to say that the safe haven law has been a success. According to the Department of Public Welfare, since the law's inception in 2002, a total of 21 infants have been received by hospitals throughout Pennsylvania.

In addition, the Department of Public Welfare maintains a statewide toll-free help line regarding the safe haven law, 1-866-921-SAFE, as well as a Web site, www.secretsafe.org. The statewide help line provides help to women in crisis. Callers can ask questions about the safe haven law and find out where the nearest hospital is. In 2012 the help line received 17 calls per month, for a total of about 201 calls. This is almost double the number of calls received in 2011.

Representative Youngblood's legislation will allow babies to be received by police officers and police stations. This makes a great deal of sense. According to the National Safe Haven Alliance, a number of States allow babies to be dropped off, brought to police stations. Examples are Maine, Ohio, Vermont, Michigan, Wisconsin, and Illinois. And once again, I applaud Representative Youngblood and ask for an affirmative vote. Thank you, Mr. Speaker.

On the question recurring,

Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—195

Adolph	Ellis	Kortz	Petri
Aument	Emrick	Kotik	Pickett
Baker	English	Krieger	Pyle
Barbin	Evankovich	Kula	Quinn
Barrar	Everett	Lawrence	Rapp
Benninghoff	Fabrizio	Longietti	Ravenstahl
Bishop	Farina	Lucas	Readshaw
Bizzarro	Farry	Mackenzie	Reed
Bloom	Fee	Maher	Reese
Boback	Fleck	Mahoney	Regan
Boyle, B.	Flynn	Major	Roae
Boyle, K.	Frankel	Maloney	Rock
Bradford	Freeman	Markosek	Roebuck
Briggs	Gainey	Marshall	Ross
Brooks	Galloway	Marsico	Rozzi
Brown, R.	Gergely	Masser	Sabatina
Brown, V.	Gibbons	Matzie	Saccone
Brownlee	Gillen	McCarter	Sainato
Burns	Gillespie	McGeehan	Sankey
Caltagirone	Goodman	McGinnis	Santarsiero
Carroll	Greiner	McNeill	Saylor
Causar	Grell	Mentzer	Schlossberg
Christiana	Grove	Metcalfe	Schreiber
Clay	Hackett	Metzgar	Simmons
Clymer	Haggerty	Miccarelli	Sims
Cohen	Hahn	Micozzie	Smith
Conklin	Haluska	Millard	Snyder
Corbin	Hanna	Miller, D.	Sonney
Costa, D.	Harhai	Miller, R.	Stephens
Costa, P.	Harhart	Milne	Stern
Cox	Harkins	Mirabito	Stevenson
Cruz	Harper	Miranda	Sturla
Culver	Harris, A.	Molchany	Swanger
Cutler	Harris, J.	Moul	Tallman
Daley, M.	Heffley	Mullery	Taylor
Daley, P.	Helm	Mundy	Thomas
Davidson	Hennessey	Murt	Tobash
Davis	Hickernell	Mustio	Toepel
Day	James	Neilson	Toohil
Dean	Kampf	Neuman	Truitt
Deasy	Kauffman	O'Brien	Turzai
DeLissio	Kavulich	O'Neill	Vereb
Delozier	Keller, F.	Oberlander	Vitali
DeLuca	Keller, W.	Painter	Waters
Denlinger	Killion	Parker	Watson
Dermody	Kim	Pashinski	Wheatley
DiGirolamo	Kinsey	Payne	White
Donatucci	Kirkland	Peifer	Youngblood
Dunbar	Knowles	Petrarca	

NAYS—0

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

STATEMENT BY MS. YOUNGBLOOD

The SPEAKER. For what purpose does the lady from Philadelphia County, Ms. Youngblood, rise?

Ms. YOUNGBLOOD. Unanimous consent. I just want to—

The SPEAKER. The lady is recognized under unanimous consent.

Ms. YOUNGBLOOD. I would like to thank every member of the Pennsylvania House of Representatives for supporting the safe haven bill and helping to make babies safe in this Commonwealth.

Once again, thank you for your vote.

The SPEAKER. The Speaker thanks the lady.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1504, PN 2068**, entitled:

An Act amending Titles 42 (Judiciary and Judicial Procedure) and 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in selection and retention of judicial officers, further providing for content of course of instruction and examination; and, in municipal police education and training, further providing for powers and duties of Municipal Police Officers' Education and Training Commission.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—195

Adolph	Ellis	Kortz	Petri
Aument	Emrick	Kotik	Pickett
Baker	English	Krieger	Pyle
Barbin	Evankovich	Kula	Quinn
Barrar	Everett	Lawrence	Rapp
Benninghoff	Fabrizio	Longietti	Ravenstahl
Bishop	Farina	Lucas	Readshaw
Bizzarro	Farry	Mackenzie	Reed
Bloom	Fee	Maher	Reese
Boback	Fleck	Mahoney	Regan
Boyle, B.	Flynn	Major	Roae
Boyle, K.	Frankel	Maloney	Rock
Bradford	Freeman	Markosek	Roebuck
Briggs	Gainey	Marshall	Ross
Brooks	Galloway	Marsico	Rozzi
Brown, R.	Gergely	Masser	Sabatina
Brown, V.	Gibbons	Matzie	Saccone
Brownlee	Gillen	McCarter	Sainato
Burns	Gillespie	McGeehan	Sankey
Caltagirone	Goodman	McGinnis	Santarsiero
Carroll	Greiner	McNeill	Saylor

Causser	Grell	Mentzer	Schlossberg
Christiana	Grove	Metcalfe	Schreiber
Clay	Hackett	Metzgar	Simmons
Clymer	Haggerty	Miccarelli	Sims
Cohen	Hahn	Micozzie	Smith
Conklin	Haluska	Millard	Snyder
Corbin	Hanna	Miller, D.	Sonney
Costa, D.	Harhai	Miller, R.	Stephens
Costa, P.	Harhart	Milne	Stern
Cox	Harkins	Mirabito	Stevenson
Cruz	Harper	Miranda	Sturla
Culver	Harris, A.	Molchany	Swanger
Cutler	Harris, J.	Moul	Tallman
Daley, M.	Heffley	Mullery	Taylor
Daley, P.	Helm	Mundy	Thomas
Davidson	Hennessey	Murt	Tobash
Davis	Hickernell	Mustio	Toepel
Day	James	Neilson	Toohil
Dean	Kampf	Neuman	Truitt
Deasy	Kauffman	O'Brien	Turzai
DeLissio	Kavulich	O'Neill	Vereb
Delozier	Keller, F.	Oberlander	Vitali
DeLuca	Keller, W.	Painter	Waters
Denlinger	Killion	Parker	Watson
Dermody	Kim	Pashinski	Wheatley
DiGirolamo	Kinsey	Payne	White
Donatucci	Kirkland	Peifer	Youngblood
Dunbar	Knowles	Petrarca	

NAYS—0

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 665, PN 1495**, entitled:

An Act amending the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, further providing for definitions; further providing for specifications; and providing for protection of workmen.

On the question,
Will the House agree to the bill on third consideration?

BILL PASSED OVER

The SPEAKER. That bill will be over for the day.

* * *

The House proceeded to third consideration of **HB 1527, PN 2037**, entitled:

An Act amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, in contract clauses and preference provisions, adding provisions relating to steel and blast furnace slag aggregates.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.
The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali.

Mr. VITALI. Will the maker stand for interrogation?

BILL PASSED OVER TEMPORARILY

The SPEAKER. The maker of the bill is not immediately available. We will go over HB 1527 temporarily. The gentleman is not available at the moment. We will go over it temporarily.

* * *

The House proceeded to third consideration of **HB 1215, PN 1960**, entitled:

An Act establishing the Pennsylvania Tourism Commission; providing for powers and duties of the Pennsylvania Tourism Commission; establishing the Tourism Promotion Trust Fund; and repealing the Travel and Tourism Act.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—189

Adolph	Ellis	Knowles	Petrarca
Aument	Emrick	Kortz	Petri
Baker	English	Kotik	Pickett
Barbin	Evankovich	Krieger	Pyle
Barrar	Everett	Kula	Quinn
Benninghoff	Fabrizio	Lawrence	Rapp
Bishop	Farina	Longietti	Ravenstahl
Bizzarro	Farry	Lucas	Readshaw
Boback	Fee	Mackenzie	Reed
Boyle, B.	Fleck	Maher	Reese
Boyle, K.	Flynn	Mahoney	Regan
Bradford	Frankel	Major	Rock
Briggs	Freeman	Maloney	Roebuck
Brooks	Gainey	Markosek	Ross
Brown, R.	Galloway	Marshall	Rozzi
Brown, V.	Gergely	Marsico	Sabatina
Brownlee	Gibbons	Masser	Saccone
Burns	Gillespie	Matzie	Sainato
Caltagirone	Goodman	McCarter	Sankey
Carroll	Greiner	McGeehan	Santarsiero

Causer	Grell	McNeill	Saylor
Christiana	Grove	Mentzer	Schlossberg
Clay	Hackett	Metzgar	Schreiber
Clymer	Haggerty	Miccarelli	Simmons
Cohen	Hahn	Micozzie	Sims
Conklin	Haluska	Millard	Smith
Corbin	Hanna	Miller, D.	Snyder
Costa, D.	Harhai	Miller, R.	Sonney
Costa, P.	Harhart	Milne	Stephens
Cox	Harkins	Mirabito	Stern
Cruz	Harper	Miranda	Stevenson
Culver	Harris, A.	Molchany	Sturla
Cutler	Harris, J.	Moul	Swanger
Daley, M.	Heffley	Mullery	Tallman
Daley, P.	Helm	Mundy	Taylor
Davidson	Hennessey	Murt	Thomas
Davis	Hickernell	Mustio	Tobash
Day	James	Neilson	Toepel
Dean	Kampf	Neuman	Toohil
Deasy	Kauffman	O'Brien	Turzai
DeLissio	Kavulich	O'Neill	Vereb
Delozier	Keller, F.	Oberlander	Vitali
DeLuca	Keller, W.	Painter	Waters
Denlinger	Killion	Parker	Watson
Dermody	Kim	Pashinski	Wheatley
DiGirolamo	Kinsey	Payne	White
Donatucci	Kirkland	Peifer	Youngblood
Dunbar			

NAYS—6

Bloom	McGinnis	Roae	Truitt
Gillen	Metcalfe		

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 1216, PN 1530**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for the tourism marketing and promotion tax credit.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—194

Adolph	Ellis	Kortz	Petrarca
Aument	Emrick	Kotik	Petri
Baker	English	Krieger	Pickett
Barbin	Evankovich	Kula	Pyle
Barrar	Everett	Lawrence	Quinn
Benninghoff	Fabrizio	Longietti	Rapp
Bishop	Farina	Lucas	Ravenstahl
Bizzarro	Farry	Mackenzie	Readshaw
Bloom	Fee	Maher	Reed
Boback	Fleck	Mahoney	Reese
Boyle, B.	Flynn	Major	Regan
Boyle, K.	Frankel	Maloney	Roae
Bradford	Freeman	Markosek	Rock
Briggs	Gainey	Marshall	Roebuck
Brooks	Galloway	Marsico	Ross
Brown, R.	Gergely	Masser	Rozzi
Brown, V.	Gibbons	Matzie	Sabatina
Brownlee	Gillen	McCarter	Saccone
Burns	Gillespie	McGeehan	Sainato
Caltagirone	Goodman	McGinnis	Sankey
Carroll	Greiner	McNeill	Santarsiero
Causer	Grell	Mentzer	Saylor
Christiana	Grove	Metcalfe	Schlossberg
Clay	Hackett	Metzgar	Schreiber
Clymer	Haggerty	Miccarelli	Simmons
Cohen	Hahn	Micozzie	Sims
Conklin	Haluska	Millard	Smith
Corbin	Hanna	Miller, D.	Snyder
Costa, D.	Harhai	Miller, R.	Sonney
Costa, P.	Harhart	Milne	Stephens
Cox	Harkins	Mirabito	Stern
Cruz	Harper	Miranda	Stevenson
Culver	Harris, A.	Molchany	Sturla
Cutler	Harris, J.	Moul	Swanger
Daley, M.	Heffley	Mullery	Tallman
Daley, P.	Helm	Mundy	Taylor
Davidson	Hennessey	Murt	Thomas
Davis	Hickernell	Mustio	Tobash
Day	James	Neilson	Toepel
Dean	Kampf	Neuman	Toohil
Deasy	Kauffman	O'Brien	Turzai
DeLissio	Kavulich	O'Neill	Vereb
Delozier	Keller, F.	Oberlander	Vitali
DeLuca	Keller, W.	Painter	Waters
Denlinger	Killion	Parker	Watson
Dermody	Kim	Pashinski	Wheatley
DiGirolamo	Kinsey	Payne	White
Donatucci	Kirkland	Peifer	Youngblood
Dunbar	Knowles		

NAYS—1

Truitt

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

CONSIDERATION OF HB 1527 CONTINUED

The SPEAKER. Return to HB 1527, PN 2037, on page 10 of the regular House calendar.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. On that question, the Speaker again recognizes the gentleman from Delaware County, Mr. Vitali, who was seeking to interrogate the maker of the bill. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. VITALI. Perhaps the first question might be to just kind of explain what the bill does.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

The bill as it is drafted requires that PENNDOT create uniform standards across the State of Pennsylvania for the usage of slag aggregates in road construction.

Mr. VITALI. Okay. Just sort of describe slag aggregates and what that is and the policy reasons for including them in roadways.

Mr. EVANKOVICH. Well, slag is a by-product of steel production and it is a recyclable material; it is a green material. If it is not utilized, it is landfilled, and the slag has been used in roads for about the last 80 years in Pennsylvania. About 4 years ago a few districts, a few PENNDOT districts made the decision to put a plan note in their proposals to make it so that slag could not be used as an aggregate material based on quality concerns. All the bill does is require that PENNDOT create uniform standards for the usage of slag aggregates so that the usage of slag aggregates is uniform to ensure quality standards across the Commonwealth.

Mr. VITALI. Does this bill require that PENNDOT utilize slag in its roadway material?

Mr. EVANKOVICH. No.

Mr. VITALI. Okay. So PENNDOT can currently use slag in their roadway material should they choose to. Is that right?

Mr. EVANKOVICH. Yes; yes, Mr. Speaker.

Mr. VITALI. Okay. My concern is that we are forcing PENNDOT to do something they may not want to do.

Now, what would be the beneficial effect, from a highway perspective, as far as durability or ease of riding or other highway effects of the use of slag?

Mr. EVANKOVICH. Well, I think, from a good-government perspective, I think as Pennsylvanians we want them to have good, high-quality slag, if it is to be used, to have good, high-quality slag underneath our roadbeds, and HB 1527 would require that.

Mr. VITALI. Okay. Now, does PENNDOT support this?

Mr. EVANKOVICH. I have not personally had any conversations with PENNDOT.

Mr. VITALI. My concern is, I do not think they do. We do not have that in writing, but my concern is that I do not think they do. Have you talked – obviously, this is a bill that is of primary concern to PENNDOT – have you made the effort to talk to PENNDOT on this?

Mr. EVANKOVICH. I have not personally discussed this issue with PENNDOT. I look at this issue as something that should be necessary to make sure that not only are we being environmentally conscious of a recyclable material but also making sure that if it is used, it is a high-quality product.

Mr. VITALI. Right.

Okay. That concludes my interrogation.

The SPEAKER. Is the gentleman seeking recognition on the bill?

Mr. VITALI. Please, please.

The SPEAKER. The gentleman is in order on final passage.

Mr. VITALI. My only concern is that I do not think PENNDOT supports this. The environmental groups have not weighed in on this as it being environmentally beneficial. We are requiring a State agency to do something they are not inclined to do. So I just simply have— It is not the most important issue in the world to me, but I do think we should have concerns when we are making a State agency do something they do not want to do. PENNDOT has plenty on its plate with an inadequate budget and crumbling roads and bridges to require them to do something they are not otherwise inclined to do. I think we should at least wait until we hear from them before supporting this. Thank you.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Kortz.

Mr. KORTZ. Thank you, Mr. Speaker.

I rise in support of HB 1527. I want to commend the prime sponsor of the bill for bringing this to the House.

Mr. Speaker, many of us here have worked or have had family members work in the steel industry. The natural by-product of the steelmaking process is slag, the blast furnace and in the steel shop. And as the prime sponsor clearly noted earlier, for over 80 years we have been using this slag in the roadbed formation here in Pennsylvania, in road construction, if you will, and it has worked very well. We have not had a problem. There was one little hiccup a while ago, and because of the hiccup, now all of a sudden everybody wants to blame the slag when it has not been proven. We have had some data put forth that the steel industry has basically debunked and said that it was false data and that they stand behind the use of slag. We stand behind the use of slag, and again, I commend the maker for bringing this forward.

Just to let you know what this bill does, and he explained it very well, it just prevents PENNDOT from excluding the use of slag. They can use it. They just cannot exclude it from being in the mix to be used in road construction. That is very important to note. Okay. So we are trying to do something here to prevent a problem, a big problem, because, Mr. Speaker, if we would say to the steel industry we can no longer use your slag, let me denote what that means here just to U.S. Steel. We have our hot metal shop, the Edgar Thomson facility, in Braddock, Pennsylvania. It generates 750,000 tons of slag every year. The cost to landfill that, talking with the industry, is between \$50 and \$60 a ton. You do the math. Seven hundred and fifty thousand tons times \$50 or \$60 a ton, it is over \$20 million; \$20 million of unnecessary cost. So, Mr. Speaker, this bill, again, all it does, it tells PENNDOT you cannot exclude the use of slag. You have to consider it in the mix.

So with that, Mr. Speaker, I would urge all my colleagues to vote in the affirmative. This is a good bill. Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. McGeehan.

Mr. McGEEHAN. Thank you, Mr. Speaker.

Would the sponsor of the bill stand for interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. McGEEHAN. Thank you very much, Mr. Speaker.

Mr. Speaker, is there science to prove that there is an adverse environmental impact from using slag in a composite aggregate?

Mr. EVANKOVICH. Can the speaker please rephrase his question? I am not sure I understand.

Mr. McGEEHAN. Is there science that demonstrates that slag has a detrimental environmental impact when it is used in a road surface?

Mr. EVANKOVICH. Not to my knowledge.

Mr. McGEEHAN. Mr. Speaker, to your knowledge, what is the potential stockpile of slag that can be used in this Commonwealth? Do you have figures? I know the prior speaker had talked about the huge by-product of the steel production, the slag. What would that mean economically to Pennsylvania but particularly to western Pennsylvania?

Mr. EVANKOVICH. Thank you, Mr. Speaker.

One thing to note is, according to the Pennsylvania Steel Alliance, slag by the ton is between 20 and 40 percent cheaper than other aggregates, than other mined aggregates.

One thing that I would mention is that, as the prior speaker noted, slag is in constant production. Well, every day that that newly created slag is sitting stockpiled, it retains moisture and it degrades in quality. So every day that slag is not used it becomes less useful as a road aggregate.

Speaking to what the current status is of stockpiles across the State of Pennsylvania, I am not aware of exactly what that number is. What I can tell you is that because of the three PENNDOT districts that have excluded the use of slag specifically in western PA, those stockpiles have grown over the last 3 to 4 years.

Mr. McGEEHAN. And finally, Mr. Speaker, is the slag aggregate when it relates to road surfaces, are they any more susceptible to damage based on the freeze-and-thaw cycle in the Commonwealth?

Mr. EVANKOVICH. Thank you, Mr. Speaker.

Slag, and this is one of the principal reasons of the bill, is for PENNDOT to outlay specifically what quality standards should exist for slag. In order for there to be road heaving or problems with the road surface because of using slag as an underlayment, there has to be moisture underneath the road in the first place, and so that is part of the overall concern here. In certain cases, certain specific instances, PENNDOT might determine that slag should not be used whenever they cannot prevent water from seeping underneath the roadbed, but if the road is created properly and the slag is of good quality, I think that it is not only a cheap but it is an environmentally and economically beneficial aggregate for us to be using.

Mr. McGEEHAN. Thank you, Mr. Speaker.

On the bill, Mr. Speaker?

The SPEAKER. The gentleman is in order on final passage.

Mr. McGEEHAN. Thank you very much, Mr. Speaker.

I want to strongly agree with my colleague who had spoken previously in support of this bill.

Mr. Speaker, slag has been used in road surfaces for decades in the Commonwealth. It is a tremendous natural resource that the Commonwealth cannot ignore the economic benefits of the composite of slag and other road-building materials.

Mr. Speaker, we heard testimony about the science behind slag, and it is not affected by the freeze and thaw any more than any other element is when it is combined with other aggregates in road surfaces.

Mr. Speaker, we use tires, we use glass, we use other components in a mixture on many of our road surfaces. Because of the tremendous amount of steel production in this Commonwealth, not enough, in my opinion and in the opinion, I think, of every member here, but the tremendous production of steel and its by-product, slag, it would be economically foolish of us to pass up an opportunity to reinstitute slag into the composite road surfaces. It makes good economic sense, it makes good environmental sense, and it makes good sense for the steel industry in the Commonwealth, and I would strongly urge support of this bill.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Gergely, and reminds him I am the umpire today.

Mr. GERGELY. Thank you, Mr. Speaker.

And I might add to that the fact that neither team was happy with my decision, similar to the legislation, indicates how well I did as an umpire.

The SPEAKER. The gentleman is out of order. One more and you are out of here.

The gentleman is in order on the bill.

Mr. GERGELY. Thank you, Mr. Speaker, and I rise to support HB 1527.

It is a great pragmatic approach to using slag in our roadways. It is a cost savings to our manufacturers. This is a green approach. This is what we need to do to help our businesses become more successful and help our taxpayers save money when we do roadwork.

So I congratulate the maker of the bill. I hope this has bipartisan support. This is also endorsed by the Pennsylvania Steel Alliance. Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this bill not because I oppose the use of slag in our roads throughout Pennsylvania. As a number of previous speakers have noted, that practice has been going on for many years now. But this bill seems to create restrictions that are unnecessary.

I am not aware of any information that would indicate that PENNDOT has a problem with continuing to use slag in its road construction projects. My understanding is that they simply want to have flexibility to be able to reject certain types of slag if they feel it is inadequate for their uses.

Now, the problem with this bill is, as I can read it, section 3765(a), which places an onerous test on PENNDOT in terms of what they can do when rejecting certain types of slag, and so far, Mr. Speaker, I have not heard one proponent of this bill explain why it is necessary to make that change in the law.

We currently have a system in which PENNDOT is able to use slag. It is a system that seems to have worked over the years. And why now are we coming forward without any indication that there is a problem with foisting this onerous restriction on what PENNDOT can and cannot do? That has not been explained, and I would say to my colleagues in the House,

absent that explanation, this bill should not be supported in its current form. Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Westmoreland County, Mr. Evankovich.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

Mr. Speaker, I want to congratulate my Democratic colleagues for their showing support of HB 1527.

I believe that things that were said on the floor today outline many of the reasons why I introduced this bill in the first place.

I would, however, like to answer the question that was posed by the previous speaker. We hear from businesses and from the people of Pennsylvania, from Pittsburgh to Philadelphia and through the middle of the State, about consistency. Mr. Speaker, PENNDOT, going back to I believe it was 2009, started to unilaterally, unilaterally within their district restrict the use of slag as a road aggregate. When asked specifically about why that was done, PENNDOT districts 9, 11, and 12 could provide no scientific reasoning for why they made it so that steel slag could not be considered.

PENNDOT, we are not restricting what PENNDOT can and cannot do in this bill. All we are asking PENNDOT to do is to provide a scientific basis for when steel slag aggregate can and cannot be used and then to hold themselves to that standard. I think that it is a good-government perspective. I believe that in the time where we are discussing transportation funding, I believe that offering a 20-to-40 percent reduction in cost from other aggregates is something that we should allow PENNDOT to do, and frankly, I am very encouraged by the bipartisan support, and I look forward to casting an affirmative vote.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

And again, in all honesty, I do not have a tremendously strong feeling on this bill or a strong background in this subject. I am just trying to add information to the debate.

I do want to partially correct something the maker of the bill said or at least challenge him to respond with regard to whether this requires PENNDOT to use slag, because as I read the bill, in section 3763, which is on page 2, line 19, it does say that "the Department of Transportation shall review and approve supplies and suppliers of slag aggregates for" its "use in..." roadways. So this does— It requires them to pass guidelines, and then it requires them to approve the use of slag. So if you look at, again, page 2, starting with lines 19, this does require PENNDOT to use slag. I just want you to put that out there.

I mean, the second point, as staff was reviewing notes, I believe that the PENNDOT objection to slag is it absorbs moisture more than I guess what would be used in the alternative. I am not an engineer, but if you wanted to know why PENNDOT opposes this, one of the reasons is the moisture absorption quality. It lists some other reasons, but I am not really prepared to discuss them. So PENNDOT does have reasons. This is a mandate.

I can tell you from an environmental perspective the environmental groups I have weighed in on do not view this as an environmental issue one way or the other.

But I thank the maker of the bill. I know he is dealing with a serious problem and he is always a hardworking person who always tries to do the right thing. So I salute him for his efforts in bringing this important issue forward.

The SPEAKER. The Speaker thanks the gentleman.

On the question recurring,

Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—182

Adolph	Evankovich	Kotik	Pickett
Aument	Everett	Krieger	Pyle
Baker	Fabrizio	Kula	Quinn
Barbin	Farina	Lawrence	Rapp
Barrar	Farry	Longietti	Ravenstahl
Benninghoff	Fee	Lucas	Readshaw
Bishop	Fleck	Mackenzie	Reed
Bizzarro	Flynn	Maher	Reese
Bloom	Frankel	Mahoney	Regan
Boyle, K.	Freeman	Major	Roae
Briggs	Gainey	Maloney	Rock
Brooks	Galloway	Markosek	Roebuck
Brown, R.	Gergely	Marshall	Ross
Brown, V.	Gibbons	Marsico	Rozzi
Brownlee	Gillen	Masser	Sabatina
Burns	Gillespie	Matzie	Saccone
Caltagirone	Goodman	McGeehan	Sainato
Carroll	Greiner	McGinnis	Sankey
Causar	Grove	McNeill	Saylor
Christiana	Hackett	Mentzer	Schlossberg
Clay	Haggerty	Metcalfe	Schreiber
Clymer	Hahn	Metzgar	Simmons
Cohen	Haluska	Miccarelli	Sims
Conklin	Hanna	Micozzie	Smith
Corbin	Harhai	Millard	Snyder
Costa, D.	Harhart	Miller, D.	Sonney
Costa, P.	Harkins	Miller, R.	Stephens
Cox	Harper	Milne	Stern
Cruz	Harris, A.	Mirabito	Stevenson
Culver	Harris, J.	Miranda	Sturla
Cutler	Heffley	Molchaney	Swanger
Daley, M.	Helm	Moul	Tallman
Daley, P.	Hennessey	Mullery	Taylor
Davidson	Hickernell	Murt	Thomas
Davis	James	Mustio	Tobash
Deasy	Kampf	Neilson	Toepel
DeLissio	Kauffman	Neuman	Toohil
DeLuca	Kavulich	O'Brien	Truitt
Denlinger	Keller, F.	O'Neill	Turzai
Dermody	Keller, W.	Oberlander	Vereb
DiGirolamo	Killion	Parker	Waters
Donatucci	Kim	Pashinski	Watson
Dunbar	Kinsey	Payne	Wheatley
Ellis	Kirkland	Petrarca	White
Emrick	Knowles	Petri	Youngblood
English	Kortz		

NAYS—13

Boback	Dean	McCarter	Peifer
Boyle, B.	Delozier	Mundy	Santarsiero
Bradford	Grell	Painter	Vitali
Day			

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 913, PN 1054**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in judicial computer system, further providing for deposits into account.

On the question,
Will the House agree to the bill on third consideration?

The SPEAKER. The Speaker recognizes the gentleman from Westmoreland County, Mr. Petrarca, who requests consideration of a technical amendment, number A03734, which the clerk will read.

On the question recurring,
Will the House agree to the bill on third consideration?

Mr. **PETRARCA** offered the following amendment No. **A03734**:

Amend Bill, page 1, line 17; page 2, line 1, by striking out all of said lines on said pages and inserting

Section 2. The addition of 42 Pa.C.S. § 3733(a)(3) shall apply retroactively to July 1, 2013.

Section 3. This act shall take effect immediately.

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Westmoreland County, Mr. Petrarca, for a brief explanation of the technical amendment.

Mr. PETRARCA. Thank you, Mr. Speaker.

When this bill was drafted, it was to affect moneys collected after July 1 of 2013. What this amendment simply does is make it retroactive back to July 1. Thank you.

The SPEAKER. The question is, will the House adopt the amendment?

On that question, the Speaker recognizes the lady from Bucks County, Mrs. Watson.

Mrs. WATSON. Thank you, Mr. Speaker.

This is an agreed-to amendment. And the previous speaker and I have worked on this bill and other issues together. So we are just quarterbacking each other and making sure everything is right. Thank you.

The SPEAKER. The Speaker thanks the lady.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—195

Adolph	Ellis	Kortz	Petri
Aument	Emrick	Kotik	Pickett
Baker	English	Krieger	Pyle
Barbin	Evankovich	Kula	Quinn
Barrar	Everett	Lawrence	Rapp
Benninghoff	Fabrizio	Longietti	Ravenstahl
Bishop	Farina	Lucas	Readshaw
Bizzarro	Farry	Mackenzie	Reed
Bloom	Fee	Maher	Reese
Boback	Fleck	Mahoney	Regan
Boyle, B.	Flynn	Major	Roae
Boyle, K.	Frankel	Maloney	Rock
Bradford	Freeman	Markosek	Roebuck
Briggs	Gainey	Marshall	Ross
Brooks	Galloway	Marsico	Rozzi
Brown, R.	Gergely	Masser	Sabatina
Brown, V.	Gibbons	Matzie	Saccone
Brownlee	Gillen	McCarter	Sainato
Burns	Gillespie	McGeehan	Sankey
Caltagirone	Goodman	McGinnis	Santarsiero
Carroll	Greiner	McNeill	Saylor
Causser	Grell	Mentzer	Schlossberg
Christiana	Grove	Metcalfe	Schreiber
Clay	Hackett	Metzgar	Simmons
Clymer	Haggerty	Miccarelli	Sims
Cohen	Hahn	Micozzie	Smith
Conklin	Haluska	Millard	Snyder
Corbin	Hanna	Miller, D.	Sonney
Costa, D.	Harhai	Miller, R.	Stephens
Costa, P.	Harhart	Milne	Stern
Cox	Harkins	Mirabito	Stevenson
Cruz	Harper	Miranda	Sturla
Culver	Harris, A.	Molchany	Swanger
Cutler	Harris, J.	Moul	Tallman
Daley, M.	Heffley	Mullery	Taylor
Daley, P.	Helm	Mundy	Thomas
Davidson	Hennessey	Murt	Tobash
Davis	Hickernell	Mustio	Toepel
Day	James	Neilson	Toohil
Dean	Kampf	Neuman	Truitt
Deasy	Kauffman	O'Brien	Turzai
DeLissio	Kavulich	O'Neill	Vereb
Delozier	Keller, F.	Oberlander	Vitali
DeLuca	Keller, W.	Painter	Waters
Denlinger	Killion	Parker	Watson
Dermody	Kim	Pashinski	Wheatley
DiGirolamo	Kinsey	Payne	White
Donatucci	Kirkland	Peifer	Youngblood
Dunbar	Knowles	Petrarca	

NAYS—0

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—195

Adolph	Ellis	Kortz	Petri
Aument	Emrick	Kotik	Pickett
Baker	English	Krieger	Pyle
Barbin	Evankovich	Kula	Quinn
Barrar	Everett	Lawrence	Rapp
Benninghoff	Fabrizio	Longietti	Ravenstahl
Bishop	Farina	Lucas	Readshaw
Bizzarro	Farry	Mackenzie	Reed
Bloom	Fee	Maher	Reese
Boback	Fleck	Mahoney	Regan
Boyle, B.	Flynn	Major	Roae
Boyle, K.	Frankel	Maloney	Rock
Bradford	Freeman	Markosek	Roebuck
Briggs	Gainey	Marshall	Ross
Brooks	Galloway	Marsico	Rozzi
Brown, R.	Gergely	Masser	Sabatina
Brown, V.	Gibbons	Matzie	Saccone
Brownlee	Gillen	McCarter	Sainato
Burns	Gillespie	McGeehan	Sankey
Caltagirone	Goodman	McGinnis	Santarsiero
Carroll	Greiner	McNeill	Saylor
Causar	Grell	Mentzer	Schlossberg
Christiana	Grove	Metcalfe	Schreiber
Clay	Hackett	Metzgar	Simmons
Clymer	Haggerty	Micarelli	Sims
Cohen	Hahn	Micozzie	Smith
Conklin	Haluska	Millard	Snyder
Corbin	Hanna	Miller, D.	Sonney
Costa, D.	Harhai	Miller, R.	Stephens
Costa, P.	Harhart	Milne	Stern
Cox	Harkins	Mirabito	Stevenson
Cruz	Harper	Miranda	Sturla
Culver	Harris, A.	Molchany	Swanger
Cutler	Harris, J.	Moul	Tallman
Daley, M.	Heffley	Mullery	Taylor
Daley, P.	Helm	Mundy	Thomas
Davidson	Hennessey	Murt	Tobash
Davis	Hickernell	Mustio	Toepel
Day	James	Neilson	Toohil
Dean	Kampf	Neuman	Truitt
Deasy	Kauffman	O'Brien	Turzai
DeLissio	Kavulich	O'Neill	Vereb
Delozier	Keller, F.	Oberlander	Vitali
DeLuca	Keller, W.	Painter	Waters
Denlinger	Killion	Parker	Watson
Dermody	Kim	Pashinski	Wheatley
DiGirolamo	Kinsey	Payne	White
Donatucci	Kirkland	Peifer	Youngblood
Dunbar	Knowles	Petrarca	

NAYS—0

NOT VOTING—0

EXCUSED—7

Evans	Gingrich	Keller, M.K.	Scavello
Gabler	Godshall	Samuelson	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

STATEMENT BY MR. MIRANDA

The SPEAKER. The Speaker recognizes the gentleman from Philadelphia County, Mr. Miranda, relative to one of the resolutions adopted earlier on the uncontested calendar.

Mr. MIRANDA. Thank you, Mr. Speaker and House colleagues.

It is a tremendous honor to stand before you and acknowledge the importance of National Hispanic Heritage Month. Every year Americans observe National Hispanic Heritage Month between September 15 and October 15. It is a time that we gather with friends and family to remember the history, culture, and contributions of our ancestors who came to America from Spain, Mexico, the Caribbean, and Central and South Americas. They gave their citizenship and became part of the backbone of what makes America great. They fought in our wars, helped build our economy, and continued to enrich our communities.

Mr. Speaker, as we celebrate the Hispanic heritage, it is important to understand the origins of the holiday. On September 17, 1968, Congress, under President Lyndon Johnson, passed a joint resolution authorizing the President to proclaim annually the week including September 15 through October 15 as National Hispanic Heritage Week.

The importance of September 15 and 16 cannot be overlooked. September 15 represents the anniversary of independence for many Latin American countries, including Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. September 16 is the day Mexico became an independent nation, and Chile and Belize celebrate their Independence Days on September 18 and September 21, respectively. This 30-day period also includes Columbus Day on October 12.

Mr. Speaker, between 1969 and 1988, Presidents Nixon, Ford, Carter, and Reagan annually proclaimed the week in September, including 15 and 16, as "National Hispanic Heritage Week." They celebrated the contributions to America by men and women of Hispanic origin. They also recalled the work of early Spanish explorers and settlers. Then in 1988 under President George H.W. Bush, Congress passed an act designating National Hispanic Heritage Month as the 31-day period between September 15 and October 15.

While National Hispanic Heritage Month is a time to look back on our ancestors and the good they have done, it is also important to recognize the good work people of Hispanic descent continue to do in our nation and the important role they play. According to data from the last census, there were 2.3 million Hispanic-owned businesses in 2012, up over 40 percent from 2002. Those Hispanic-owned businesses generated \$345.2 billion in receipts, up over 50 percent from 2002. While Hispanic-owned businesses continue to contribute

to the American economy, Hispanic citizens, nearly 47 million of them, continue to impact all areas of U.S. society, including science, politics, art, and culture.

With that in mind, I hope we all continue to remember, honor, and cherish our Hispanic heritage. It has enriched our past and will truly and surely continue to enrich our future.

Thank you, Mr. Speaker and House colleagues.

STATEMENT BY MR. CRUZ

The SPEAKER. For what purpose does the gentleman from Philadelphia County, Mr. Cruz, rise?

Mr. CRUZ. Unanimous consent, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. CRUZ. I just want to take the opportunity to thank everyone and, hopefully, they can all support this resolution and to celebrate Hispanic Heritage Month. Thank you, Mr. Speaker.

REPUBLICAN CAUCUS

The SPEAKER. The Speaker recognizes the lady from Susquehanna County, Ms. Major, for a caucus announcement.

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus immediately. I would ask our Republican colleagues to please report to our caucus room immediately. We would be prepared to come back on the floor at 2 p.m. Thank you, Mr. Speaker.

DEMOCRATIC CAUCUS

The SPEAKER. The Speaker recognizes the gentleman from Allegheny County, Mr. Frankel, for a caucus announcement.

Mr. FRANKEL. Thank you, Mr. Speaker.

The Democrats will also caucus right away. So Democrats will caucus immediately. Thank you.

RECESS

The SPEAKER. This House stands in recess until 2 p.m., unless sooner recalled by the Speaker.

RECESS EXTENDED

The time of recess was extended until 2:30 p.m.; further extended until 3 p.m.

AFTER RECESS

The time of recess having expired, the House was called to order.

LEAVES OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence of the gentleman from Monroe County, Mr. Scavello, back on the floor of the House. Without objection, his name will be added to the master roll call.

The Speaker additionally recognizes the presence of the gentleman from Northampton County, Mr. Samuelson, on the floor of the House. Without objection, his name will be added back to the master roll call.

CALENDAR CONTINUED

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 28, PN 2065**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for definitions; and providing for nonmunicipal police extraterritorial jurisdiction for purposes of municipal police jurisdiction.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 1523, PN 2030**, entitled:

An Act amending the act of January 19, 1967 (1968 P.L.992, No.442), entitled, as amended, "An act authorizing the Commonwealth of Pennsylvania and the local government units thereof to preserve, acquire or hold land for open space uses," further providing for local taxing options.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 612, PN 1959**, entitled:

An Act relating to the right to practice naturopathic medicine; providing for the issuance of licenses and the suspension and revocation of licenses; providing for penalties; and making repeals.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 1041, PN 1239**, entitled:

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in emergency telephone service, providing for prohibited release of information.

On the question,

Will the House agree to the bill on second consideration?

BILL PASSED OVER

The SPEAKER. I guess the House will not agree to the bill today. The bill is over for the day.

* * *

The House proceeded to second consideration of **HB 1594, PN 2185**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of luring a child into a motor vehicle or structure.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

STATE SYSTEM OF HIGHER EDUCATION PROPERTY REQUEST NO. 1, RESOLUTION A

Mr. TURZAI called up for consideration **SSHER 1, Resolution A**, entitled:

In the House, September 23, 2013

Resolved, That State System of Higher Education Property Request No. 1 of 2013, transmitted by the State System of Higher Education under the Public School Code of 1949 to the General Assembly under date of July 15, 2013, which is incorporated herein by reference, be approved.

On the question,
Will the House adopt State System of Higher Education Property Request No. 1, Resolution A?

(Members proceeded to vote.)

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence on the floor of the gentleman from Perry County, Mr. Mark Keller. Without objection, his name will be added back to the master roll call.

CONSIDERATION OF STATE SYSTEM OF HIGHER EDUCATION PROPERTY REQUEST NO. 1, RESOLUTION A, CONTINUED

On the question recurring,
Will the House adopt State System of Higher Education Property Request No. 1, Resolution A?

The following roll call was recorded:

YEAS—198

Adolph	Emrick	Kotik	Pickett
Aument	English	Krieger	Pyle
Baker	Evankovich	Kula	Quinn
Barbin	Everett	Lawrence	Rapp
Barrar	Fabrizio	Longietti	Ravenstahl
Benninghoff	Farina	Lucas	Readshaw
Bishop	Farry	Mackenzie	Reed
Bizzarro	Fee	Maher	Reese
Bloom	Fleck	Mahoney	Regan
Boback	Flynn	Major	Roae
Boyle, B.	Frankel	Maloney	Rock

Boyle, K.	Freeman	Markosek	Roebuck
Bradford	Gainey	Marshall	Ross
Briggs	Galloway	Marsico	Rozzi
Brooks	Gergely	Masser	Sabatina
Brown, R.	Gibbons	Matzie	Saccone
Brown, V.	Gillen	McCarter	Sainato
Brownlee	Gillespie	McGeehan	Samuelson
Burns	Goodman	McGinnis	Sankey
Caltagirone	Greiner	McNeill	Santarsiero
Carroll	Grell	Mentzer	Saylor
Causser	Grove	Metcalfe	Scavello
Christiana	Hackett	Metzgar	Schlossberg
Clay	Haggerty	Miccarelli	Schreiber
Clymer	Hahn	Micozzie	Simmons
Cohen	Haluska	Millard	Sims
Conklin	Hanna	Miller, D.	Smith
Corbin	Harhai	Miller, R.	Snyder
Costa, D.	Harhart	Milne	Sonney
Costa, P.	Harkins	Mirabito	Stephens
Cox	Harper	Miranda	Stern
Cruz	Harris, A.	Molchany	Stevenson
Culver	Harris, J.	Moul	Sturla
Cutler	Heffley	Mullery	Swanger
Daley, M.	Helm	Mundy	Tallman
Daley, P.	Hennessey	Murt	Taylor
Davidson	Hickernell	Mustio	Thomas
Davis	James	Neilson	Tobash
Day	Kampf	Neuman	Toepel
Dean	Kauffman	O'Brien	Toohil
Deasy	Kavulich	O'Neill	Truitt
DeLissio	Keller, F.	Oberlander	Turzai
DeLozier	Keller, M.K.	Painter	Vereb
DeLuca	Keller, W.	Parker	Vitali
Denlinger	Killion	Pashinski	Waters
Dermody	Kim	Payne	Watson
DiGirolamo	Kinsey	Peifer	Wheatley
Donatucci	Kirkland	Petrarca	White
Dunbar	Knowles	Petri	Youngblood
Ellis	Kortz		

NAYS—0

NOT VOTING—0

EXCUSED—4

Evans	Gabler	Gingrich	Godshall
-------	--------	----------	----------

A majority of the members elected to the House having voted in the affirmative on State System of Higher Education Property Request No. 1, Resolution A, the question was determined in the affirmative and the resolution was adopted.

Ordered, That the clerk inform the Senate and the State System of Higher Education accordingly.

The SPEAKER. The House will come to order.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1189, PN 2355**, entitled:

An Act amending the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, providing for optional property tax elimination.

On the question,
Will the House agree to the bill on second consideration?

Mr. COX offered the following amendment No. **A03448**:

Amend Bill, page 1, lines 1 through 22, by striking out all of said lines and inserting

Providing for tax levies and information related to taxes; authorizing the imposition of a personal income tax or an earned income tax by a school district subject to voter approval; providing for imposition of and exclusions from a sales and use tax for the stabilization of education funding, for increase to the personal income tax, for certain licenses, for hotel occupancy tax, for procedure and administration of the tax, for expiration of authority to issue certain debt and for reporting by local government units of debt outstanding; establishing the Education Stabilization Fund; providing for disbursements from this fund; and repealing certain provisions of the Public School Code of 1949 and sales and use tax provisions of the Tax Reform Code of 1971.

TABLE OF CONTENTS

Chapter 1. Preliminary Provisions

Section 101. Short title.

Section 102. Definitions.

Chapter 3. Taxation by School Districts

Section 301. Scope.

Section 302. Definitions.

Section 303. Limitation.

Section 304. Preemption.

Section 305. General tax authorization.

Section 306. Referendum.

Section 307. Continuity of tax.

Section 308. Collections.

Section 309. Credits.

Section 310. Exemption and special provisions.

Section 311. Regulations.

Chapter 4. Education Tax

Section 401. Education tax.

Chapter 7. Sales and Use Tax for the Stabilization of Education Funding

Subchapter A. Preliminary Provisions

Section 701. Scope.

Section 701.1. Definitions.

Subchapter B. Sales and Use Tax

Section 702. Imposition of tax.

Section 703. Computation of tax.

Subchapter C. Exclusions from Sales and Use Tax

Section 704. Exclusions from tax.

Section 705. Alternate imposition of tax.

Section 706. Credit against tax.

Subchapter D. Licenses

Section 708. Licenses.

Subchapter E. Hotel Occupancy Tax

Section 709. Definitions.

Section 710. Imposition of tax.

Section 711. Seasonal tax returns.

Subchapter F. Procedure and Administration

Section 715. Persons required to make returns.

Section 716. Form of returns.

Section 717. Time for filing returns.

Section 718. Extension of time for filing returns.

Section 719. Place for filing returns.

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

Section 721. Payment of tax.

Section 722. Time of payment.

Section 723. Other times for payment.

Section 724. Place for payment.

Section 725. Tax held in trust for Commonwealth.

Section 726. Local receivers of use tax.

Section 727. Discount.

Section 728. (Reserved).

Section 729. (Reserved).

Section 730. Assessment.

Section 731. Mode and time of assessment.

Section 732. Reassessment.

Section 733. (Reserved).

Section 734. Review by Board of Finance and Revenue.

Section 735. (Reserved).

Section 736. Burden of proof.

Section 737. Collection of tax.

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

Section 739. Precollection of tax.

Section 740. Bulk and auction sales.

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

Section 742. Lien for taxes.

Section 743. Suit for taxes.

Section 744. Tax suit comity.

Section 745. Service.

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

Section 747. Prepayment of tax.

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

Section 748. Registration of transient vendors.

Section 748.1. Bond.

Section 748.2. Notification to department.

Section 748.3. Seizure of property.

Section 748.4. Fines.

Section 748.5. Transient vendors subject to chapter.

Section 748.6. Promoters.

Section 749. (Reserved).

Section 750. (Reserved).

Section 751. (Reserved).

Section 752. Refunds.

Section 753. Refund petition.

Section 754. (Reserved).

Section 755. (Reserved).

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

Section 757. (Reserved).

Section 758. Limitation on assessment and collection.

Section 759. Failure to file return.

Section 760. False or fraudulent return.

Section 761. Extension of limitation period.

Section 762. (Reserved).

Section 763. (Reserved).

Section 764. (Reserved).

Section 765. Interest.

Section 766. Additions to tax.

Section 767. Penalties.

Section 768. Criminal offenses.

Section 769. Abatement of additions or penalties.

Section 770. Rules and regulations.

Section 771. Keeping of records.

Section 771.1. Reports and records of promoters.

Section 772. Examinations.

Section 773. Records and examinations of delivery agents.

Section 774. Unauthorized disclosure.

Section 775. Cooperation with other governments.

Section 776. Interstate compacts.

Section 777. Bonds.

Subchapter G. Funding Provisions

Section 780. (Reserved).

Section 781. Appropriation for refunds.

Section 781.1. Construction.

Section 782. Transfers to Education Stabilization Fund.

Chapter 9. (Reserved)

Chapter 11. Limitations on School District Taxation

Section 1101. Authority to levy taxes and effect of future Constitutional amendment.

Section 1102. Transitional taxes.

Section 1103. Consideration of State appropriations or reimbursements.

Section 1104. Taxes for cities and school districts of the first class.

Chapter 12. Indebtedness

Section 1201. Expiration of authority to issue debt.

Section 1202. Notices and reporting by school districts of debt outstanding.

Chapter 13. Funding Provisions

Section 1301. Definitions.

Section 1302. Education Stabilization Fund.

Section 1303. Standard disbursements to school districts from Education Stabilization Fund.

Chapter 15. Miscellaneous Provisions

Section 1501. Transitional provision.

Section 1502. Construction.

Section 1503. Severability.

Section 1504. Repeals.

Section 1505. Applicability.

Section 1506. Effective date.

Amend Bill, page 1, lines 25 and 26; pages 2 through 8, lines 1 through 30; page 9, lines 1 through 5, by striking out all of said lines on said pages and inserting

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Property Tax Independence Act.

Section 102. Definitions.

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

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

"Education Stabilization Fund." The Education Stabilization Fund established in section 1302.

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

"Governing body." The board of school directors of a school 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 TAXATION BY SCHOOL DISTRICTS

Section 301. Scope.

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

Section 302. Definitions.

The words and phrases used in this chapter shall have the same

meanings given to them in the Tax Reform Code of 1971 or The Local Tax Enabling Act unless the context clearly indicates otherwise.

Section 303. Limitation.

Any tax imposed under this chapter shall be subject to the limitations set forth in Chapter 11.

Section 304. Preemption.

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

Section 305. General tax authorization.

(a) General rule.—A board of school directors may, by resolution, levy, assess and collect or provide for the levying, assessment and collection of a tax on personal income or a tax on earned income and net profits for general revenue purposes.

(b) Personal income tax.—

(1) A board of school directors may levy, assess and collect a tax on the personal income of resident individuals at a rate determined by the board of school directors.

(2) A school district which seeks to levy the tax authorized under paragraph (1) must comply with section 306.

(3) If a board of school directors seeks to impose a personal income tax under this subsection and the referendum under section 306 is approved by the electorate, the board of school directors shall have no authority to impose an earned income and net profits tax under subsection (c) or any other act.

(4) A personal income tax imposed under the authority of this section shall be levied by the school district on each of the classes of income specified in section 303 of the Tax Reform Code of 1971 and regulations under that section, provisions of which are incorporated by reference into this chapter.

(i) Notwithstanding the provisions of section 353(f) of the Tax Reform Code of 1971, the Department of Revenue may permit the proper officer or an authorized agent of a school district imposing a personal income tax pursuant to this chapter to inspect the tax returns of any taxpayer of the school district or may furnish to the officer or an authorized agent an abstract of the return of income of any current or former resident of the school district or supply information concerning any item of income contained in any tax return. The officer or authorized agent of the school district imposing a tax under this chapter shall be furnished the requested information upon payment to the Department of Revenue of the actual cost of providing the requested information.

(ii) (A) Except for official purposes or as provided by law, it shall be unlawful for any officer or authorized agent of a school district to do any of the following:

(I) Disclose to any other individual or entity the amount or source of income, profits, losses, expenditures or any particular information concerning income, profits, losses or expenditures contained in any return.

(II) Permit any other individual or entity to view or examine any return or copy of a return or any book containing any abstract or particulars.

(III) Print, publish or publicize in any manner any return; any particular information contained in or concerning the return; any amount or source of income, profits, losses or expenditures in or concerning the return; or any particular information concerning income, profits, losses or expenditures

contained in or relating to any return.

(B) Any officer or authorized agent of a school district that violates clause (A):

(I) May be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(II) May be removed from office or discharged from employment.

(c) Earned income and net profits tax.—

(1) A board of school directors may levy, assess and collect a tax on earned income and net profits of resident individuals at a rate determined by the board of school directors.

(2) A school district which seeks to levy the tax authorized under paragraph (1) must comply with section 306.

(3) If a board of school directors seeks to impose a tax on earned income and net profits under this subsection and the referendum under section 306 is approved by the electorate, the board of school directors shall have no authority to impose a personal income tax under subsection (b) or any other act.

Section 306. Referendum.

(a) General rule.—In order to levy a personal income tax or an earned income and net profits tax under this chapter, a governing body shall use the procedures set forth in subsections (b), (c), (d), (e), (f) and (g).

(b) Approved by electorate.—

(1) Subject to notice and public hearing requirements of subsection (g), a governing body may levy the personal income tax or earned income and net profits tax under this chapter only by obtaining the approval of the electorate of the affected school district in a public referendum at only the primary election preceding the fiscal year when the personal income tax or earned income and net profits tax will be initially imposed or the rate increased.

(2) The referendum question must state the initial rate of the proposed personal income tax or earned income and net profits tax, the purpose of the tax, the duration of the tax and the amount of revenue to be generated by the implementation of the tax.

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

Do you favor paying a personal income tax of X% for the purpose of X, for X years, which will generate \$X?

Do you favor paying an earned income and net profits tax of X% for the purpose of X, for X years, which will generate \$X?

(4) A nonlegal interpretative statement must accompany the question in accordance with section 201.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, that includes the following:

(i) the initial rate of the personal income or earned income and net profits tax imposed under this chapter; and

(ii) the estimated revenues to be derived from the initial rate imposed under this chapter.

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

(d) Review and certification.—The election officials who receive a petition shall perform all administrative functions in reviewing and certifying the validity of the petition and conduct all necessary communications with the school district.

(e) Notification.—

(1) If the election officials of the county who receive the petition certify that it is sufficient under this section and determine that a question should be placed on the ballot, the

decision shall be communicated to election officials in any other county in which the school district is also located.

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

(f) Certification of results.—Election officials from each county involved shall independently certify the results from their county to the governing body.

(g) Adoption of resolution.—

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

(2) Prior to adopting a resolution imposing the tax authorized by this section, the governing body shall give public notice of its intent to adopt the resolution in the manner provided by The Local Tax Enabling Act and shall conduct at least two public hearings regarding the proposed adoption of the resolution. One public hearing shall be conducted during normal business hours and one public hearing shall be conducted during evening hours or on a weekend.

Section 307. Continuity of tax.

Every tax levied under this chapter shall continue in force on a fiscal year basis without annual reenactment unless the rate of the tax is subsequently changed or the duration placed on the referendum has expired.

Section 308. Collections.

Any income tax imposed under this chapter shall be subject to the provisions for collection and delinquency found in The Local Tax Enabling Act.

Section 309. Credits.

(a) Credit.—Except as set forth in subsection (b), the provisions of The Local Tax Enabling Act shall be applied by a board of school directors to determine any credits applicable to a tax imposed under this chapter.

(b) Limitation.—Payment of any tax on income to any state other than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth by a resident of a school district located in this Commonwealth shall not be credited to and allowed as a deduction from the liability of such person for any income tax imposed by the school district of residence pursuant to this chapter.

Section 310. Exemption and special provisions.

(a) Earned income and net profits tax.—A school district that imposes an earned income and net profits tax authorized under section 305(c) may exempt from the payment of that tax any person whose total income from all sources is less than \$12,000.

(b) Applicability to personal income tax.—Section 304 of the Tax Reform Code of 1971 shall apply to any personal income tax levied by a school district under section 305(b).

Section 311. Regulations.

A school district that imposes:

(1) an earned income and net profits tax authorized under section 305(c) shall be subject to the provisions of The Local Tax Enabling Act and may adopt procedures for the processing of claims for credits and exemptions under section 309 and 310; or

(2) a personal income tax under section 305(b) shall be subject to all regulations adopted by the Department of Revenue in administering the tax due to the Commonwealth under Article III of the Tax Reform Code of 1971.

CHAPTER 4 EDUCATION TAX

Section 401. Education tax.

(a) General rule.—In addition to the tax collected under section 302 of the Tax Reform Code of 1971, the Commonwealth shall impose the tax set forth in subsection (c) in the same manner as the tax under the Tax Reform Code of 1971.

(b) Imposition of tax.—

(1) Every resident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income enumerated in section 303 of the Tax Reform Code of 1971, a tax upon each dollar of income received by that resident during that resident's taxable year at the rate of 1.27%.

(2) Every nonresident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income enumerated in section 303 of the Tax Reform Code of 1971 from sources within this Commonwealth, a tax upon each dollar of income received by that nonresident during that nonresident's taxable year at the rate of 1.27%.

(c) Deposit in Education Stabilization Fund.—All moneys collected under this section shall be deposited in the Education Stabilization Fund.

(d) Combination of tax forms.—The department shall incorporate the taxpayer reporting requirement for the implementation of this section into the forms utilized by the department under Article III of the Tax Reform Code of 1971.

(e) Definitions.—The words and phrases used in this section shall have the same meaning given to them in Article III of the Tax Reform Code of 1971.

CHAPTER 7 SALES AND USE TAX FOR THE STABILIZATION OF EDUCATION FUNDING SUBCHAPTER A PRELIMINARY PROVISIONS

Section 701. Scope.

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

Section 701.1. 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:

(a) "Soft drinks."

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

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

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

(1) Having, maintaining or using within this Commonwealth, either directly or through a subsidiary, representative or an agent, an office, distribution house, sales house, warehouse, service enterprise or other place of business; or any agent of general or restricted authority, or representative, irrespective of whether the place of business, representative or agent is located in this Commonwealth, permanently or temporarily, or whether the person or subsidiary maintaining the place of business, representative or agent is authorized to do business within this Commonwealth.

(2) Engaging in any activity as a business within this

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

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

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

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

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

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

(4) The term does not include:

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

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

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

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

(b.1) "Service performed in this Commonwealth."

A service performed:

(1) completely in this Commonwealth;

(2) partially in this Commonwealth and partially outside this Commonwealth, when the recipient or user of the service is located in this Commonwealth; or

(3) partially in this Commonwealth and partially outside this Commonwealth, when the recipient or user of the service is not located in this Commonwealth, but only to the extent of those services actually performed in this Commonwealth.

The place of performance need not be determined if the recipient or user of the service is located in this Commonwealth.

A service performed partially in this Commonwealth and partially outside this Commonwealth shall be presumed to have been performed completely in this Commonwealth unless the taxpayer can show the place of performance by clear and convincing evidence. With respect to interstate telecommunications services, only services for interstate telecommunications which originate or are terminated in this

Commonwealth and which are billed and charged to a service address in this Commonwealth shall be presumed to have been performed completely in this Commonwealth and shall be subject to tax.

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

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

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

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

(4) Building, rebuilding, repairing and making additions to, or replacements in or upon vessels designed for commercial use of registered tonnage of 50 tons or more when produced on special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of or for the account of the owner.

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

- (i) product or utility service; or
- (ii) method of producing a product or utility service,

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

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

(7) Remanufacture or retrofit by a manufacturer or remanufacturer of aircraft, armored vehicles, other defense-related vehicles having a finished value of at least \$50,000. Remanufacture or retrofit involves the disassembly of such aircraft, vehicles, parts or components, including electric or electronic components, the integration of those parts and components with other used or new parts or components, including the salvaging, recycling or reclaiming of the used parts or components and the assembly of the new or used aircraft, vehicles, parts or components. The term does not include constructing, altering, servicing, repairing or improving real estate or repairing, servicing or installing tangible personal property, nor the cooking, freezing or baking of fruits, vegetables, mushrooms, fish, seafood, meats, poultry or bakery products. For purposes of this clause, the following terms or

phrases have the following meanings:

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

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

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

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

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

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

(1.1) The processing of fruits or vegetables by cleaning, cutting, coring, peeling or chopping and treating to preserve, sterilize or purify and substantially extend the useful shelf life of the fruits or vegetables, when the person engaged in the activity packages the property in sealed containers for wholesale distribution.

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

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

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

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

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

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

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

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

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

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

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

(11) The processing of used lubricating oils.

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

(13) The cooking or baking of bread, pastries, cakes, cookies, muffins and donuts when the person engaged in the activity sells the items at retail at locations that do not constitute

an establishment from which ready-to-eat food and beverages are sold. For purposes of this clause, a bakery, a pastry shop and a donut shop shall not be considered an establishment from which ready-to-eat food and beverages are sold.

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

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

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

(17) The producing of mobile telecommunications services.

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

(f) "Purchase at retail."

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

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

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

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

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

The term, with respect to liquor and malt or brewed beverages, includes the purchase of liquor from any Pennsylvania Liquor Store by any person for any purpose, and the purchase of malt or brewed beverages from a manufacturer of malt or brewed beverages, distributor or importing distributor by any person for any purpose, except purchases from a manufacturer of malt or brewed beverages by a distributor or importing distributor or purchases from an importing distributor by a distributor within the meaning of the Liquor Code. The term does not include any purchase of malt or brewed beverages from a retail dispenser or any purchase of liquor or malt or brewed beverages from a person holding a retail liquor license within the meaning of and pursuant to the provisions of the Liquor Code, but includes any purchase or acquisition of liquor or malt or brewed beverages other than pursuant to the provisions of the Liquor Code.

(g) "Purchase price."

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

(2) The value of any tangible personal property actually taken in trade or exchange in lieu of the whole or any part of the purchase price shall be deducted from the purchase price. For the

purpose of this clause, the amount allowed by reason of tangible personal property actually taken in trade or exchange shall be considered the value of such property.

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

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

(4) Where there is a transfer or retention of possession or custody, whether it is termed a rental, lease, service or otherwise, of tangible personal property including, but not limited to, linens, aprons, motor vehicles, trailers, tires, industrial office and construction equipment, and business machines the full consideration paid or delivered to the vendor or lessor shall be considered the purchase price, even though the consideration is separately stated and designated as payment for processing, laundering, service, maintenance, insurance, repairs, depreciation or otherwise. Where the vendor or lessor supplies or provides an employee to operate the tangible personal property, the value of the labor supplied may be excluded and shall not be considered as part of the purchase price if separately stated. There shall also be included as part of the purchase price the value of anything paid or delivered, or promised to be paid or delivered by a lessee, whether money or otherwise, to any person other than the vendor or lessor by reason of the maintenance, insurance or repair of the tangible personal property which a lessee has the possession or custody of under a rental contract or lease arrangement.

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

(ii) The election must be made at the time of filing a tax return with the department and reporting the tax liability and paying the proper tax due plus all accrued penalties and interest, if any, within six months of the 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 (ll), 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 services in exchange for a purchase price but not including an employer who obtains services from his employees in exchange for wages or salaries when such services are rendered in the ordinary scope of their employment.

(i) "Resale."

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

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

(3) The term also includes tangible personal property purchased or having a situs within this Commonwealth solely for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into tangible personal property and thereafter transported outside this Commonwealth for use exclusively outside this Commonwealth.

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

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

(j) "Resident."

(1) Any natural person:

(i) who is domiciled in this Commonwealth; or

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

(2) Any corporation:

(i) incorporated under the laws of this Commonwealth;

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

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

(3) Any association, fiduciary, partnership or other

entity:

(i) domiciled in this Commonwealth;

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

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

(k) "Sale at retail."

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

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

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

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

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

(4) The rendition for a consideration of the service of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning tangible personal property other than wearing apparel or shoes, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property other than wearing apparel or shoes for a consideration, regardless of whether the services are performed directly or by any means other than by coin-operated self-service laundry equipment for wearing apparel or household goods and whether or not any tangible personal property is transferred in conjunction with the activity, except such services as are rendered in the construction, reconstruction, remodeling, repair or maintenance of real estate.

(5) (Reserved).

(6) (Reserved).

(7) (Reserved).

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

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

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

(A) The manufacture of tangible personal property.

(B) Farming, dairying, agriculture, horticulture or floriculture when engaged in as a business enterprise. The term "farming" includes

the propagation and raising of ranch raised fur-bearing animals and the propagation of game birds for commercial purposes by holders of propagation permits issued under 34 Pa.C.S. (relating to game) and the propagation and raising of horses to be used exclusively for commercial racing activities.

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

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

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

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

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

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

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

(10) The term, with respect to liquor and malt or brewed beverages, includes the sale of liquor by any Pennsylvania liquor store to any person for any purpose, and the sale of malt or brewed beverages by a manufacturer of malt or brewed beverages, distributor or importing distributor to any person for any purpose, except sales by a manufacturer of malt or brewed beverages to a distributor or importing distributor or sales by an importing distributor to a distributor within the meaning of the

act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The term does not include any sale of malt or brewed beverages by a retail dispenser or any sale of liquor or malt or brewed beverages by a person holding a retail liquor license within the meaning of and pursuant to the provisions of the Liquor Code, but shall include any sale of liquor or malt or brewed beverages other than pursuant to the provisions of the Liquor Code.

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

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

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

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

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

(16) (Reserved).

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

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

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

(20) Except as otherwise provided under section 704, the rendition for a consideration of any service when the primary objective of the purchaser is the receipt of any benefit of the service performed, as distinguished from the receipt of property. The following provisions shall apply:

(i) In determining what is a service, the intended use or stated objective of the contracting parties shall not necessarily be controlling.

(ii) Any service performed in this Commonwealth shall be subject to the tax imposed under this chapter unless specifically exempted in this chapter.

(iii) With respect to services performed in this Commonwealth for a recipient or user of the services located in another state in which the services, had they been performed in that state, would not be subject to a sales or use tax under the laws of that state, then no tax may be imposed under this chapter.

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

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

(m) "Tangible personal property." Corporeal personal property including, but not limited to, goods, wares, merchandise, steam and natural and manufactured and bottled gas for non-residential use, electricity for non-residential use, prepaid telecommunications, premium cable or premium video programming service, spirituous or vinous liquor and malt or brewed beverages and soft drinks, interstate telecommunications service originating or terminating in this Commonwealth and charged to a service address in this Commonwealth, intrastate telecommunications service with the exception of:

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

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

In the case of any interstate or intrastate telecommunications service,

any charge paid through a credit or payment mechanism which does not relate to a service address, such as a bank, travel, credit or debit card, but not including prepaid telecommunications, is deemed attributable to the address of origination of the telecommunications service.

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

(o) "Use."

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

(2) The obtaining by a purchaser of the service of printing or imprinting of tangible personal property when the purchaser furnishes, either directly or indirectly, the articles used in the printing or imprinting.

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

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

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

(4) The obtaining by a purchaser of the service of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning tangible personal property other than wearing apparel or shoes or applying or installing tangible personal property as a repair or replacement part of other tangible personal property, including, but not limited to, wearing apparel or shoes, regardless of whether the services are performed directly or by any means other than by means of coin-operated self-service laundry equipment for wearing apparel or household goods, and regardless of whether any tangible personal property is transferred to the purchaser in conjunction with the activity.

The term "use" does not include:

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

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

(i) The manufacture of tangible personal property.

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

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

(iv) Processing as defined in subclause (d). The exclusions provided in subparagraphs (i), (ii), (iii) and (iv) do not apply to any vehicle required to be

registered under 75 Pa.C.S. (relating to vehicles) except those vehicles directly used by a public utility engaged in the business as a common carrier; to maintenance facilities; or to materials, supplies or equipment to be used or consumed in the construction, reconstruction, remodeling, repair or maintenance of real estate other than directly used machinery, equipment, parts or foundations therefor that may be affixed to such real estate. The exclusions provided in subparagraphs (i), (ii), (iii) and this subparagraph do not apply to tangible personal property or services to be used or consumed in managerial sales or other nonoperational activities, nor to the purchase or use of tangible personal property or services by any person other than the person directly using the same in the operations described in subparagraphs (i), (ii), (iii) and this subparagraph. The exclusion provided in subparagraph (iii) does not apply to:

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

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

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

(5) Where tangible personal property or services are utilized for purposes constituting a use, and for purposes excluded from the definition of "use," it shall be presumed that the property or services are utilized for purposes constituting a sale at retail and subject to tax unless the user proves to the department that the predominant purposes for which the property or services are utilized do not constitute a sale at retail.

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

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

(8) (Reserved).

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

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

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

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

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

(14) (Reserved).

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

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

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

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

(19) Except as otherwise provided under section 704, the obtaining by the purchaser of any service, not otherwise set forth in this definition, when the primary objective of the purchaser is the receipt of any benefit of the service performed, as distinguished from the receipt of property. The following provisions shall apply:

(i) In determining what is a service, the intended use or stated objective of the contracting parties shall not necessarily be controlling.

(ii) Any service performed in this Commonwealth shall be subject to the tax imposed under this chapter unless specifically exempted in this chapter.

(iii) With respect to services performed in this Commonwealth for a recipient or user of the services located in another state in which the services, had they been performed in that state, would not be subject to a sales or use tax under the laws of that state, then no tax may be imposed under this chapter.

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

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

(q) (Reserved).

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

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

(t) "Transient vendor."

(1) Any person who:

(i) brings into this Commonwealth, by automobile, truck or other means of transportation, or purchases in this Commonwealth tangible personal property the sale or 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 services subject to tax under section 702.

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

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

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

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

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

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

(cc) "Help supply services." Providing temporary or continuing help where the help supplied is on the payroll of the supplying person or entity, but is under the supervision of the individual or business to which help is furnished. The term includes, but is not limited to, service of a type provided by labor and manpower pools, employee leasing services, office help supply services, temporary help services, usher services, modeling services or fashion show model supply services. The term does not include: providing farm labor services or human health-related services, including nursing, home health care and personal care. As used in this clause, "personal care" shall include providing at least one of the following types of assistance to persons with limited ability for self-care:

- (1) dressing, bathing or feeding;
- (2) supervising self-administered medication;
- (3) transferring a person to or from a bed or wheelchair;

or

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

(dd) (Reserved).

(ee) (Reserved).

(ff) (Reserved).

(gg) (Reserved).

(hh) (Reserved).

(ii) (Reserved).

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

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

- (1) safe deposit boxes by financial institutions;
- (2) storage in refrigerator or freezer units;
- (3) storage in commercial warehouses;
- (4) facilities for goods distribution; and
- (5) lockers in airports, bus stations, museums and other public places.

(ll) "Cable or video programming service." Cable television services, video programming services, community antenna television services or any other distribution of television, video, audio or radio services which is transmitted with or without the use of wires to purchasers.

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

(mm) (Reserved).

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

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

activity pursuant to a construction contract, including a subcontractor.

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

- (1) air conditioning limited to heating, cooling, purification, humidification, dehumidification and ventilation;
- (2) electrical;
- (3) plumbing;
- (4) communications limited to voice, video, data, sound, master clock and noise abatement;
- (5) alarms limited to fire, security and detection;
- (6) control system limited to energy management, traffic and parking lot and building access;
- (7) medical system limited to diagnosis and treatment equipment, medical gas, nurse call and doctor paging;
- (8) laboratory system;
- (9) cathodic protection system; or
- (10) furniture, cabinetry and kitchen equipment.

The term includes boilers, chillers, air cleaners, humidifiers, fans, switchgear, pumps, telephones, speakers, horns, motion detectors, dampers, actuators, grills, registers, traffic signals, sensors, card access devices, guardrails, medial devices, floor troughs and grates and laundry equipment, together with integral coverings and enclosures, regardless of whether: the item constitutes a fixture or is otherwise affixed to the real estate; damage would be done to the item or its surroundings on removal; or the item is physically located within a real estate structure. The term does not include guardrail posts, pipes, fittings, pipe supports and hangers, valves, underground tanks, wire, conduit, receptacle and junction boxes, insulation, ductwork and coverings.

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

- (1) a charitable organization, a volunteer firemen's organization, a nonprofit educational institution or a religious organization for religious purposes and which qualifies as an institution of purely public charity under the act of November 26, 1997 (P.L.508, No.55), known as the Institutions of Purely Public Charity Act;
- (2) the United States; or
- (3) the Commonwealth, its instrumentalities or political subdivisions.

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

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

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

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

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

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

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

(4) Mobile telecommunications services.

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

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

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

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

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

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

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

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

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

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

(yy) "Prebuilt housing sale." A sale of prebuilt housing to a prebuilt housing purchaser, including a sale to a landlord, without regard to whether the person making the sale is responsible for installing the prebuilt housing or whether the prebuilt housing becomes a real estate structure upon installation. Temporary installation by a prebuilt housing builder for display purposes of a unit held for resale shall not be considered occupancy for residential purposes.

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

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

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

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

the mobile telecommunications service.

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

(1) where at least 150 employees are employed to initiate or answer telephone calls;

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

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

(i) customer service and support;

(ii) technical assistance;

(iii) help desk service;

(iv) providing information;

(v) conducting surveys;

(vi) revenue collections; or

(vii) receiving orders or reservations.

For purposes of this clause, a physical location may include multiple buildings utilized by a taxpayer located within this Commonwealth.

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

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

(ggg) "Clothing." All vesture, wearing apparel, raiments, garments, footwear and other articles of clothing, including clothing patterns and items that are to be a component part of clothing, worn or carried on or about the human body including, but not limited to, all accessories, ornamental wear, formal day or evening apparel and articles made of fur on the hide or pelt or any material imitative of fur and articles of which such fur, real, imitation or synthetic, is the component material of chief value and sporting goods and clothing not normally used or worn when not engaged in sports.

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

(1) Soft drinks.

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

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

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

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

For purposes of this clause, a bakery, a pastry shop, a donut shop, a delicatessen, a grocery store, a supermarket, a farmer's market, a convenience store or a vending machine shall not be considered an establishment from which food or beverages ready to eat are sold except for the sale of meals, sandwiches, food from salad bars, hand-dipped or hand-served ice-based products including ice cream and yogurt, hot soup, hot pizza and other hot food items, brewed coffee and hot beverages. For purposes of this subclause, beverages shall not include malt and brewed beverages and spiritous and vinous liquors but shall include soft drinks.

SUBCHAPTER B

SALES AND USE TAX

Section 702. Imposition of tax.

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

(1) There is hereby imposed on each separate sale at retail of tangible personal property or services in this Commonwealth a tax of 7% of the purchase price, which tax shall be collected by the vendor from the purchaser, and shall be paid over to the Commonwealth as provided in this chapter.

(2) There is hereby imposed on the use in this Commonwealth of tangible personal property purchased at retail and on those services purchased at retail a tax of 7% of the purchase price, which tax shall be paid to the Commonwealth by the person who makes such use as provided under this chapter, except that the tax shall not be paid to the Commonwealth by the person where the person has paid the tax imposed by paragraph (1) or has paid the tax imposed by this subsection to the vendor with respect to the use.

(b) (Reserved).

(c) Telecommunications service.—

(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 7% 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 7% 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 evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsection (a) and shall be deemed to occur at the purchaser's billing address.

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

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

(e.1) Prepaid mobile telecommunications service.—

(1) Notwithstanding any other provision of this chapter, the sale or use of prepaid mobile telecommunications service 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 mobile telecommunications service not evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsection (a) and shall be deemed to occur at the purchaser's billing address or the location associated with the mobile telephone number or the point of sale, whichever is applicable.

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

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

(f) Prebuilt housing.—

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

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

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

(g) Home service providers.—

(1) Notwithstanding any other provisions of this chapter and in accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or use of mobile telecommunications services which are deemed to be provided to a customer by a home service provider under 4 U.S.C. § 117 (relating to sourcing rules) shall be subject to the tax of 7% of the purchase price, which tax shall be collected by the home service provider from the customer, and shall be paid over to the Commonwealth as provided in this chapter if the customer's place of primary use is located within this Commonwealth, regardless of where the mobile telecommunications services originate, terminate or pass through.

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

Section 703. Computation of tax.

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

(b) Deposit into Education Stabilization Fund.—The tax collected under section 702 shall be deposited into the Education Stabilization Fund.

SUBCHAPTER C

EXCLUSIONS FROM SALES AND USE TAX

Section 704. Exclusions from tax.

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

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

tangible personal property or services sold or purchased in such transaction, provided that inventory and stock in trade so sold or purchased shall not be excluded from the tax by the provisions of this subsection.

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

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

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

(4) (Reserved).

(5) The sale at retail or use of steam, natural and manufactured and bottled gas, fuel oil or electricity when purchased directly by the user solely for the user's own residential use.

(6) (Reserved).

(7) (Reserved).

(8) (Reserved).

(9) (Reserved).

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

(ii) This paragraph shall not apply with respect to any tangible personal property or services used in any unrelated trade or business carried on by the organization or institution or with respect to any materials, supplies and equipment used and transferred to the organization or institution in the construction, reconstruction, remodeling, renovation, repairs and maintenance of any real estate structure, other than building machinery and equipment, except materials and supplies when purchased by the organization or institution for routine maintenance and repairs.

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

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

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

(iii) As used in this paragraph, the terms "nonpublic school," "charter school," "cyber charter school," "vocational school," "supervisor" and "home

education program" shall have the meanings given to them in the Public School Code of 1949.

(13) The sale at retail, or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers and all other wrapping supplies, when such use is incidental to the delivery of any personal property, except that any charge for wrapping or packaging shall be subject to tax at the rate imposed by section 702.

(14) Sale at retail or use of vessels designed for commercial use of registered tonnage of 50 tons or more when produced by the builders thereof upon special order of the purchaser.

(15) Sale at retail of tangible personal property or services used or consumed in building, rebuilding, repairing and making additions to or replacements in and upon vessels designed for commercial use of registered tonnage of 50 tons or more upon special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of or for the account of the owner.

(16) The sale at retail or use of tangible personal property or services to be used or consumed for ship cleaning or maintenance or as fuel, supplies, ships' equipment, ships' stores or sea stores on vessels designed for commercial use of registered tonnage of 50 tons or more to be operated principally outside the limits of this Commonwealth.

(17) The sale at retail or use of prescription medicines, drugs or medical supplies, crutches and wheelchairs for the use of persons with disabilities and invalids, artificial limbs, artificial eyes and artificial hearing devices when designed to be worn on the person of the purchaser or user, false teeth and materials used by a dentist in dental treatment, eyeglasses when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser and artificial braces and supports designed solely for the use of persons with disabilities or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including, but not limited to, hospital beds, iron lungs and kidney machines.

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

(19) (Reserved).

(20) (Reserved).

(21) (Reserved).

(22) (Reserved).

(23) (Reserved).

(24) The sale at retail or use of motor vehicles, trailers and semitrailers, or bodies attached to the chassis thereof, sold to a nonresident of this Commonwealth to be used outside this Commonwealth and which are registered in a state other than this Commonwealth within 20 days after delivery to the vendee.

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

(26) The sale at retail or use of all vesture, wearing apparel, raiments, garments, footwear and other articles of clothing with a purchase price of less than \$50, including clothing patterns and items that are to be a component part of clothing, worn or carried on or about the human body but all accessories, ornamental wear, formal day or evening apparel and articles made of fur on the hide or pelt or any material imitative of fur and articles of which such fur, real, imitation or synthetic, is the component material of chief value, but only if such value is more than three times the value of the next most valuable component material, and sporting goods and clothing not normally used or worn when not engaged in sports shall not be excluded from the tax.

(27) (Reserved).

(28) (Reserved).

(29) The sale at retail or use of food and beverages that are federally approved items for the Women, Infants and Children Program under section 17 of the Child Nutrition Act of

1966 (Public Law 89-642, 42 U.S.C. § 1786).

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

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

(31) (Reserved).

(32) (Reserved).

(33) (Reserved).

(34) (Reserved).

(35) (Reserved).

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

(37) (Reserved).

(38) (Reserved).

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

(40) The sale at retail of supplies and materials to tourist promotion agencies, which receive grants from the Commonwealth, for distribution to the public as promotional material or the use of such supplies and materials by said agencies for said purposes.

(41) (Reserved).

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

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

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

(45) (Reserved).

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

(47) (Reserved).

(48) (Reserved).

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

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

"Nonprofit association." An entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis.

"Sports program." Baseball, softball, football, basketball, soccer and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and

whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for persons with physical handicaps or persons with mental retardation.

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

(50) (Reserved).

(51) The sale at retail or use of interior office building cleaning services but only as relates to 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.

(52) (Reserved).

(53) (Reserved).

(54) (Reserved).

(55) (Reserved).

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

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

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

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

(57) The sale at retail to or use by a construction contractor of building machinery and equipment and services thereto that are:

(i) transferred pursuant to a construction contract for any charitable organization, volunteer firemen's organization, nonprofit educational institution or religious organization for religious purposes, provided that the building machinery and equipment and services thereto are not used in any unrelated trade or business; or

(ii) transferred to the United States or the Commonwealth or its instrumentalities or political subdivisions.

(58) (Reserved).

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

(60) (Reserved).

(61) (Reserved).

(62) The sale at retail or use of tangible personal property or services which are directly used in farming, dairying or agriculture when engaged in as a business enterprise, regardless of whether the sale is made to the person directly engaged in the business enterprise or to a person contracting with the person directly engaged in the business enterprise for the production of food.

(63) (Reserved).

(64) The sale at retail to or use by a construction contractor, employed by a public school district pursuant to a construction contract, of any materials and building supplies which, during construction or reconstruction, are made part of

any public school building utilized for instructional classroom education within this Commonwealth, if the construction or reconstruction:

- (i) is necessitated by a disaster emergency, as defined in 35 Pa.C.S. § 7102 (relating to definitions); and
 - (ii) takes place during the period when there is a declaration of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).
- (65) (Reserved).

(66) The sale at retail or use of copies of an official document sold by a government agency or a court. For the purposes of this paragraph, the following terms or phrases shall have the following meanings:

- (i) "court" includes:
 - (A) an appellate court as defined in 42 Pa.C.S. § 102 (relating to definitions);
 - (B) A court of common pleas as defined in 42 Pa.C.S. § 102; or
 - (C) the minor judiciary as defined in 42 Pa.C.S. § 102;

(ii) "government agency" means an agency as defined in section 102 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law; and

(iii) "official document" means a record as defined in section 102 of the Right-to-Know Law. The term shall include notes of court testimony, deposition transcripts, driving records, accident reports, birth and death certificates, deeds, divorce decrees and other similar documents.

(67) The sale at retail or use of repair or replacement parts, including the installation of those parts, exclusively for use in helicopters and similar rotorcraft or in overhauling or rebuilding of helicopters and similar rotorcraft or helicopters and similar rotorcraft components.

(68) The sale at retail or use of helicopters and similar rotorcraft.

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

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

(71) The sale at retail of insurance premiums.

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

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

(74) The rental of real property.

(75) The sale at retail of tuition.

(76) The sale at retail of any of the following business, professional or technical services performed by a business and rendered to another business:

- (i) Legal services.
- (ii) Architectural, engineering and related services.
- (iii) Accounting, auditing and bookkeeping services.
- (iv) Specialized design services.
- (v) Advertising, public relations and related services.
- (vi) Services to building and dwellings.
- (vii) Scientific, environmental and technical consulting services.
- (viii) Scientific research and development services.
- (ix) Information services.
- (x) Administrative services.

(xi) Custom programming, design and data processing services.

(xii) Parking lot and garage services.

(77) The sale at retail of legal services relating to domestic relations matters or criminal matters.

(78) The sale at retail of services rendered as part of a transfer of an interest in real property.

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

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

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

(82) The sale at retail or use of services performed by minors under 18 years of age and not on behalf of another person.

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

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

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

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

(87) (Reserved).

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

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

Section 705. Alternate imposition of tax.

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

(b) Aircraft.—A commercial aircraft operator who acquires an aircraft for the purpose of resale, or lease, or is entitled to claim another valid exemption at the time of purchase, and subsequent to the purchase, periodically uses the same aircraft for a taxable use under this chapter or the Tax Reform Code of 1971, may elect to pay a tax equal to 7% of the fair rental value of the aircraft during such use.

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

Section 706. Credit against tax.

(a) Tax paid to another state.—

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

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

Code of 1971.

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

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

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

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

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

(5) The total amount of tax credits provided for in this subsection and approved by the department shall not exceed \$30,000,000 in any fiscal year. If the total amount of tax credits applied for by all applicants exceeds the amount 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 section under former Article III of the Tax Reform Code of 1971 and all licenses issued or renewed on or after the effective date of this section shall be valid for a period of five years.

(b.1) Refusal of license.—

(1) If an applicant for a license or any person holding a license has not 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 department may refuse to issue, may suspend or may revoke said license.

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

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

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

(c) Penalties.—

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

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

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

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

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

SUBCHAPTER E HOTEL OCCUPANCY TAX

Section 709. Definitions.

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

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

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

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

"Operator." Any person who operates a hotel.

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

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

(b) Other definitions.—The following words and phrases, when used in Subchapters D and F, shall, in addition to the meaning ascribed to them by section 701, have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

"Maintaining a place of business in this Commonwealth." Being the operator of a hotel in this Commonwealth.

"Purchase at retail." Occupancy.

"Purchase price." Rent.

"Purchaser." Occupant.

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

"Services." Occupancy.

"Tangible personal property." Occupancy.

"Use." Occupancy.

"Vendor." Operator.

Section 710. Imposition of tax.

There is hereby imposed an excise tax of 7% of the rent on every occupancy of a room or rooms in a hotel in this Commonwealth, which tax shall be collected by the operator from the occupant and paid over to the Commonwealth as provided in this chapter and deposited into the Education Stabilization Fund.

Section 711. Seasonal tax returns.

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

SUBCHAPTER F

PROCEDURE AND ADMINISTRATION

Section 715. Persons required to make returns.

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

Section 716. Form of returns.

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

Section 717. Time for filing returns.

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

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

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

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

Section 718. Extension of time for filing returns.

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

Section 719. Place for filing returns.

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

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

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

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

Section 721. Payment of tax.

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

Section 722. Time of payment.

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

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

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

Section 723. Other times for payment.

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

Section 724. Place for payment.

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

Section 725. Tax held in trust for Commonwealth.

(a) General rule.—All taxes collected by any person from purchasers in accordance with this chapter and all taxes 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.

(a) General rule.—Subject to the provisions of subsection (b), if a return is filed by a licensee and the tax shown to be due thereon less any discount is paid all within the time prescribed, the licensee shall be entitled to credit and apply against the tax payable by the licensee a discount of 1% of the amount of the tax collected by the licensee, as compensation for the expense of collecting and remitting the tax due by the licensee and as consideration of the prompt payment.

(b) Types of periodic filers.—For returns filed on or after the effective date of this section, the discount under subsection (a) shall be limited to the following:

- (1) For a monthly filer, \$25 per return.
- (2) For a quarterly filer, \$75 per return.
- (3) For a semiannual filer, \$150 per return.

Section 728. (Reserved).

Section 729. (Reserved).

Section 730. Assessment.

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

Section 731. Mode and time of assessment.

(a) Duty to examine.—

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

(2) If such assessment is not paid within ten days, there shall be added and paid to the department an additional 3% of the difference for each month during which the assessment remains unpaid. The total of all additions shall not exceed 18% of the difference shown on the assessment.

(b) Underestimated tax on returns.—

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

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

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

(c) Estimated assessments.—

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

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

(d) Studies.—

(1) The department may conduct the studies necessary to compute effective rates by business classification, based upon the ratio between the tax required to be collected and taxable sales

and to use such rates in arriving at the apparent tax liability of a taxpayer.

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

Section 732. Reassessment.

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

Section 733. (Reserved).

Section 734. Review by Board of Finance and Revenue.

(a) Procedure.—

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

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

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

(c) Action by board.—

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

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

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

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

Section 735. (Reserved).

Section 736. Burden of proof.

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

Section 737. Collection of tax.

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

(b) Collection by persons maintaining a place of business in the Commonwealth.—

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

(2) (i) Every person not otherwise required to collect tax that delivers tangible personal property to a location within this Commonwealth and that unpacks, positions, places or assembles the tangible personal property shall collect the tax from the purchaser at the time of delivery and shall remit the tax to the department if the person delivering the tangible personal property is responsible

for collecting any portion of the purchase price of the tangible personal property delivered and the purchaser has not provided the person with proof that the tax imposed by this chapter has been or will be collected by the seller or that the purchaser provided the seller with a valid exemption certificate.

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

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

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

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

(2) Where the tangible personal property or service is of a type which is never subject to the tax imposed or where the sale or lease is in interstate commerce, the certificate need not be furnished.

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

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

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

(6) An exemption certificate:

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

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

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

(iv) which, in the case of any purchase costing \$200 or more, is accompanied by a sworn declaration on a form to be provided by the department of an intended usage of the property or service which would render it nontaxable,

shall be presumed to be taken in good faith and the burden of proving otherwise shall be on the department.

(d) Waivers.—

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

(2) No such authority shall be granted or exercised,

except on application to the department, and the issuance by the department, in its discretion, of a direct payment permit.

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

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

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

(b) No issuance of certificate of title without payment of tax.—

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

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

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

Section 739. Precollection of tax.

(a) Authorization.—

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

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

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

(c) Reimbursement.—

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

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

Section 740. Bulk and auction sales.

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

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

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

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

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

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

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

(b) Limitation on defenses.—

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

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

Section 742. Lien for taxes.

(a) Nature and effect of lien.—

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

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

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

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

(b) Priority status.—

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

(2) In the case of a judicial sale of property, subject to a lien imposed under this section, on a lien or claim over which the lien imposed under this section has priority, the sale shall discharge the lien imposed under this section to the extent only that the proceeds are applied to its payment, and the lien shall continue in full force and effect as to the balance remaining unpaid.

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

(4) (i) The lien of the taxes, interest and penalties, shall continue for five years from the date of entry, and may be revived and continued in the manner now or hereafter

provided for renewal of judgments, or as may be provided in The Fiscal Code, and a writ of execution may directly issue upon the lien without the issuance and prosecution to judgment of a writ of scire facias.

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

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

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

(d) Priority payment from distribution.—

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

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

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

Section 743. Suit for taxes.

(a) General rule.—At any time within three years after any tax or any amount of tax shall be finally due and payable, the department may commence an action in the courts of this Commonwealth, of any state or of the United States, in the name of the Commonwealth, to collect the amount of tax due together with additions, interest, penalties and costs in the manner provided at law or in equity for the collection of ordinary debts.

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

(c) Construction.—The provisions of this section are in addition to any process, remedy or procedure for the collection of taxes provided by this chapter or by the laws of this Commonwealth, and this section is neither limited by nor intended to limit any such process, remedy or procedure.

Section 744. Tax suit comity.

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

Section 745. Service.

(a) General rule.—Any person who maintains a place of business in this Commonwealth is deemed to have appointed the Secretary of the Commonwealth as the person's agent for the acceptance of service of process or notice in any proceedings for the enforcement of the civil provisions of this chapter, and any service made upon the Secretary of

the Commonwealth as agent shall be of the same legal force and validity as if the service had been personally made on the person.

(b) Substitute service.—Where service cannot be made on the person in the manner provided by other laws of this Commonwealth relating to service of process, service may be made on the Secretary of the Commonwealth and, in such case, a copy of the process or notice shall also be personally served on any agent or representative of the person who may be found within this Commonwealth, or where no such agent or representative may be found a copy of the process or notice shall be sent by registered mail to the person at the last known address of the person's principal place of business, home office or residence.

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

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

Section 747. Prepayment of tax.

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

(b) Subsequent collection of tax.—If the purchase price is thereafter collected, in whole or in part, the amount collected shall be first applied to the payment of the entire tax portion of the bill, and shall be remitted to the department by the vendor with the first return filed after such collection.

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

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

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

- (1) The purchaser fails to pay the vendor the total purchase price.
- (2) The purchase price is written off, either in whole or in part, as a bad debt on the vendor's books and records.
- (3) The bad debt has been deducted for Federal income tax purposes under section 166 of the Internal Revenue Code of 1986.

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

(b) Limitation.—

- (1) The refund authorized by this section shall be limited to the sales tax paid to the department that is attributed to the bad debt, less any discount under section 727.
- (2) Partial payments by the purchaser to the vendor shall be prorated between the original purchase price and the sales tax due on the sale.
- (3) Payments made to a vendor on any transaction which includes both taxable and nontaxable components shall be allocated proportionally between the taxable and nontaxable components.

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

(d) Items not refundable.—No refund shall be granted under this

section for interest, finance charges or expenses incurred in attempting to collect any amount receivable.

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

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

(g) Interest prohibited.—Notwithstanding the provisions of section 806.1 of The Fiscal Code, no interest shall be paid by the Commonwealth on refunds of sales tax attributed to bad debt under this section.

(h) Administration.—

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

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

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

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

Section 748. Registration of transient vendors.

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

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

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

(d) Contents of certificate.—The certificate issued by the department shall state that the transient vendor named in the certificate has registered with the department and shall provide notice to the transient vendor that:

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

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

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

Section 748.1. Bond.

(a) General rule.—Upon registration with the department, a transient vendor shall also post a bond with the department in the amount of \$500 as surety for compliance with the provisions of this chapter. After a period of demonstrated compliance with these provisions or, if the transient vendor provides the license number of a promoter who has notified the department of a show, in accordance with the provisions of section 748.6(a), the department may reduce the

amount of bond required of a transient vendor or may eliminate the bond entirely.

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

Section 748.2. Notification to department.

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

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

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

- (1) fails to notify the department as required by subsection (a);
- (2) provides the department with false information regarding the conduct of business in this Commonwealth;
- (3) fails to collect sales tax on all tangible personal property or services sold subject to the sales tax; or
- (4) fails to file with the department a tax return as required by section 717.

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

Section 748.3. Seizure of property.

(a) General rule.—If a transient vendor conducting business in this Commonwealth fails to exhibit a valid certificate on demand by authorized employees of the department, those authorized employees shall seize, without warrant, the tangible personal property and the automobile, truck or other means of transportation used to transport or carry that property. All property seized shall be deemed contraband and shall be subject to immediate forfeiture proceedings instituted by the department pursuant to procedures adopted by regulation, except as otherwise provided by this section.

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

- (1) presentation of a valid certificate to authorized employees of the department; or
- (2) registration by the transient vendor with the department and the posting of a bond in the amount of \$500, either immediately or within 15 days after the property is seized.

Section 748.4. Fines.

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

Section 748.5. Transient vendors subject to chapter.

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

Section 748.6. Promoters.

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

(b) License.—

- (1) Except as otherwise provided in this chapter, the department shall, within 15 days after receipt of an application

for a license, issue to the promoter without charge a license to operate such shows.

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

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

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

(e) Penalties.—

(1) Any licensed promoter who:

- (i) permits any person to display for sale or to sell tangible personal property or service without first having been licensed under section 708;
- (ii) fails to maintain records of a show as required by law; or
- (iii) knowingly maintains false records or fails to comply with any provision contained in this section or any regulation promulgated by the department pertaining to shows,

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

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

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

Section 749. (Reserved).

Section 750. (Reserved).

Section 751. (Reserved).

Section 752. Refunds.

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

(b) Exception.—No refund shall be made under this section with respect to any payment made by reason of an assessment with respect to which a taxpayer has filed a petition for reassessment pursuant to section 2702 of the Tax Reform Code of 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 department is assessing tax against another person may, within six months after the filing by the department of the assessment against the other person, file a special petition for refund, notwithstanding the person's failure to timely file a petition pursuant to section 3003.1 of the Tax Reform Code of 1971. The provisions of Article XXVII of the Tax Reform Code of 1971 shall be applicable to the special petition for refund, except that the department need not act on the petition until there is a final determination as to the propriety of the assessment filed against the other party to the transaction. Where a petition is filed under this provision in order to take advantage of the extended period of limitations, overpayments by the petitioner shall be refunded but only to the extent of the actual tax, without consideration of interest and penalties, paid by the other party to the transaction.

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

Section 757. (Reserved).

Section 758. Limitation on assessment and collection.

The amount of the tax imposed by this chapter or the Tax Reform Code of 1971 shall be assessed within three years after the date when the return provided for by section 717(a) or (c) is filed or the end of the year in which the tax liability arises, whichever occurs later. Any assessment may be made at any time during the period notwithstanding that the department may have made one or more previous assessments against the taxpayer for the year in question, or for any part of the year. In any case, no credit shall be given for any penalty previously assessed or paid.

Section 759. Failure to file return.

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

Section 760. False or fraudulent return.

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

Section 761. Extension of limitation period.

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

Section 762. (Reserved).

Section 763. (Reserved).

Section 764. (Reserved).

Section 765. Interest.

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

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

Section 766. Additions to tax.

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

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

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

Section 767. Penalties.

(a) General rule.—The penalties, additions, interest and liabilities provided by this chapter shall be paid on notice and demand by the department, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this chapter to tax imposed by this chapter shall be deemed also to refer to the penalties, additions, interest and liabilities provided by this chapter.

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

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

Section 768. Criminal offenses.

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

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

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

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

(3) willfully fails or neglects to timely file any return or report required by this chapter or, as a taxpayer, refuses to timely pay any tax, penalty or interest imposed or provided for by this

chapter, or willfully fails to preserve the person's books, papers and records as directed by the department;

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

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

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

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

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

(c) Exceptions.—

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

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

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

Section 769. Abatement of additions or penalties.

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

Section 770. Rules and regulations.

(a) General rule.—The department shall enforce the provisions of this chapter and shall prescribe, adopt, promulgate and enforce rules and regulations not inconsistent with the provisions of this chapter, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, and the collection of taxes, penalties and interest imposed by this chapter. The department may prescribe the extent, if any, to which any of the rules and regulations shall be applied without retroactive effect.

(b) Determination of purchase price.—

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

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

(3) For the purpose of this chapter where a taxable sale occurs between a parent corporation and a subsidiary affiliate or controlled corporation of such parent, there shall be a rebuttable presumption that because of such common interest the

transaction was not at arm's-length.

Section 771. Keeping of records.

(a) Persons liable for taxes.—Every person liable for any tax imposed by this chapter, or for the collection of the tax, shall keep the records, render such statements, make the returns and comply with the rules and regulations as the department may, from time to time, prescribe regarding matters pertinent to the person's business. Whenever in the judgment of the department it is necessary, it may require any person, by notice served on the person, or by regulations, to make the returns, render the statements or keep the records as the department deems sufficient to show whether the person is liable to pay or collect tax under this chapter.

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

(c) Nonresidents.—

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

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

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

(d) Retail dealers.—

(1) Any person doing business as a retail dealer who at the same time is engaged in another business which does not involve the making of sales taxable under this chapter shall keep separate books and records of the person's businesses so as to show the sales taxable under this chapter separately from the sales not taxable under this chapter.

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

(e) Segregation of taxes required.—

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

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

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

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

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

Section 771.1. Reports and records of promoters.

Every licensed promoter shall keep a record of the date and place of each show and the name, address, sales, use and hotel occupancy license number of every person whom the licensed promoter permits to display for sale or to sell tangible personal property or services subject to tax under section 702 at the show. The records shall be open for inspection and examination at any reasonable time by the department

or a duly authorized representative, and the records shall, unless the department consents in writing to an earlier destruction, be preserved for three years after the date the report was filed or the date it was due, whichever occurs later, except that the department may by regulation require that they be kept for a longer period of time.

Section 772. Examinations.

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

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

(c) Other powers of department.—

(1) The department is further authorized to examine any person, under oath, concerning taxable sales or use by any taxpayer or concerning any other matter relating to the enforcement or administration of this chapter, and to this end may compel the production of books, papers and records and the attendance of all persons whether as parties or witnesses whom it believes to have knowledge of such matters.

(2) The procedure for such hearings or examinations shall be the same as that provided by The Fiscal Code relating to inquisitorial powers of fiscal officers.

Section 773. Records and examinations of delivery agents.

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

Section 774. Unauthorized disclosure.

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

Section 775. Cooperation with other governments.

Notwithstanding the provisions of section 774, the department may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any state, or the authorized representative of either such officer, to inspect the tax returns of any taxpayer, or may furnish to the officer or to the officer's authorized representative an abstract of the return of any taxpayer, or supply the officer or the authorized representative with information concerning any item contained in any return or disclosed by the report of any examination or investigation of the return of any taxpayer. This permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of the Commonwealth charged with the administration of this chapter.

Section 776. Interstate compacts.

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

(b) Other powers.—The Governor, or the Governor's authorized representative, may join with the authorities of other states to conduct joint investigations, to exchange information, hold joint hearings and enter into compacts or interstate agreements with such other states to accomplish uniform reciprocal use tax collections between those states

who are parties to any compact or interstate agreement and the Commonwealth.

Section 777. Bonds.

(a) Procedure.—

(1) Whenever the department, in its discretion, deems it necessary to protect the revenues to be obtained under the provisions of this chapter, it may require any nonresident natural person or any foreign corporation, association, fiduciary, partnership or other entity, not authorized to do in this Commonwealth or not having an established place of business in this Commonwealth and subject to the tax imposed by section 702, to file a bond issued by a surety company authorized to do business in this Commonwealth and approved by the Insurance Commissioner as to solvency and responsibility, in such amounts as it may fix, to secure the payment of any tax or penalties due, or which may become due, from a natural person or corporation.

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

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

(4) (i) The department may, for a period of three years, require a bond of any person who has on three or more occasions within a 12-month period either filed a return or made payment to the department more than 30 days late.

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

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

(b) Alternative security.—

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

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

(c) Lien may be filed.—

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

(2) All funds received on execution of the judgment on the lien shall be refunded to the taxpayer with 3% interest should

a final determination be made that the taxpayer does not owe any payment to the department.

SUBCHAPTER G FUNDING PROVISIONS

Section 780. (Reserved).

Section 781. Appropriation for refunds.

So much of the proceeds of the tax imposed by this chapter as shall be necessary for the payment of refunds, enforcement or administration under this chapter is hereby appropriated for those purposes.

Section 781.1. Construction.

To the extent that the language of this chapter is identical to that of equivalent provisions in the former act of March 6, 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for Education, or Article II of the Tax Reform Code of 1971, that language shall be deemed a reenactment of such identical provisions.

Section 782. Transfers to Education Stabilization Fund.

(a) Legislative intent.—It is the intent of the General Assembly to increase the rate of the current sales and use tax and broaden the sales and use tax base in order to provide funds for the operating expenses of school districts and as a means to abolish the school property tax.

(b) Deposit of sales and use tax collected.—The secretary shall deposit into the Education Stabilization Fund revenues received on or after January 1, 2014, regardless of the transaction date, that equal the portion of the tax imposed by this chapter as follows:

(1) Except as otherwise provided in paragraphs (2) and (3), 1% of the tax collected on the sales at retail and use of tangible personal property and services as provided in section 702.

(2) All of the tax collected on the sale at retail of services under section 702, including those services subject to the tax as provided under sections 701(k)(4) and (o)(4) and 704(51).

(3) All of the tax collected on expanded sales and uses.

(c) Definition.—For purposes of this section, "expanded sales and uses" means:

(1) The sale at retail or use of disposable diapers; premoistened wipes; incontinence products; colostomy deodorants; toilet paper; sanitary napkins, tampons or similar items used for feminine hygiene; or toothpaste, toothbrushes or dental floss.

(2) The sale at retail or use of nonprescription medicines.

(3) The sale at retail or use of all vesture, wearing apparel, raiments, garments, footwear and other articles of clothing, except as excluded from the tax under section 704(26).

(4) The sale at retail or use of food and beverages for human consumption, except as excluded from the tax under section 704(29).

(5) The sale at retail or use of newspapers. For purposes of this section, the term "newspaper" shall mean a "legal newspaper" or a publication containing matters of general interest and reports of current events which qualifies as a "newspaper of general circulation" qualified to carry a "legal advertisement" as those terms are defined in 45 Pa.C.S. § 101 (relating to definitions), not including magazines. The term "newspaper" also includes any printed advertising materials circulated with such newspaper regardless of where or by whom such printed advertising material was produced.

(6) The sale at retail or use of caskets and burial vaults for human remains and markers and tombstones for human graves.

(7) The sale at retail or use of flags of the United States and the Commonwealth of Pennsylvania.

(8) The sale at retail or use of textbooks for use in schools, colleges and universities, either public or private, when purchased in behalf of or through such schools, colleges or universities provided such institutions of learning are recognized by the Department of Education.

(9) The sale at retail or use of motion picture film rented or licensed from a distributor for the purpose of commercial exhibition.

(10) The sale at retail or use of mail order catalogs and direct mail advertising literature or materials, including electoral literature or materials, such as envelopes, address labels and a one-time license to use a list of names and mailing addresses for each delivery of direct mail advertising literature or materials, including electoral literature or materials, through the United States Postal Service.

(11) The sale at retail of horses, if at the time of purchase, the seller is directed to ship or deliver the horse to an out-of-State location, whether or not the charges for shipment are paid for by the seller or the purchaser.

(12) The sale at retail of supplies and materials to tourist promotion agencies, which receive grants from the Commonwealth, for distribution to the public as promotional material or the use of such supplies and materials by said agencies for said purposes.

(13) The sale at retail or use of materials used in the construction and erection of objects purchased by not-for-profit organizations for purposes of commemoration and memorialization of historical events, provided that the object is erected upon publicly owned property or property to be conveyed to a public entity upon the commemoration or memorialization of the historical event.

(14) The sale at retail or use of candy or gum regardless of the location from which the candy or gum is sold.

(15) The sale at retail or use of horses to be used exclusively for commercial racing activities and the sale at retail and use of feed, bedding, grooming supplies, riding tack, farrier services, portable stalls and sulkies for horses used exclusively for commercial racing activities.

(16) The sale at retail to or use by a construction contractor of building machinery and equipment and services thereto that are:

(i) transferred pursuant to a construction contract for any charitable organization, volunteer firemen's organization, volunteer firefighters' relief association, nonprofit educational institution or religious organization for religious purposes, provided that the building machinery and equipment and services thereto are not used in any unrelated trade or business; or

(ii) transferred to the United States or the Commonwealth or its instrumentalities or political subdivisions.

(17) The sale or use of used prebuilt housing.

(18) The sale at retail to or use of food and nonalcoholic beverages by an airline which will transfer the food or nonalcoholic beverages to passengers in connection with the rendering of the airline service.

(19) The sale at retail or use of separately stated fees paid pursuant to 13 Pa.C.S. § 9525 (relating to fees).

(20) The sale at retail or use of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum and palladium, and which is in such state or condition that its value depends upon its content and not its form.

"Investment metal bullion" does not include precious metal which has been assembled, fabricated, manufactured or processed in one or more specific and customary industrial, professional, aesthetic or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium or other metal and of the United States or any foreign nation with a fair market value greater than any nominal value of such coins. "Investment coins" does not include jewelry or works of art made of coins,

nor does it include commemorative medallions.

CHAPTER 9

(RESERVED)

CHAPTER 11

LIMITATIONS ON

SCHOOL DISTRICT TAXATION

Section 1101. Authority to levy taxes and effect of future Constitutional amendment.

(a) Abrogating authority to impose certain taxes.—

(1) The authority of any school district to levy, assess and collect any real property tax under the Public School Code of 1949, or any other act shall expire, subject to the provisions of section 1102, January 1, 2014.

(2) The authority of a city of the first class to impose or continue to provide for the imposition or continuation of any tax, including, but not limited to, the real property tax, for the use of a school district of the first class shall expire in accordance with section 1102(b).

(b) Collection of certain taxes unaffected.—The provisions of this section or any other provision of this act shall not prevent or interfere with any action of any school district to collect any tax owed by any taxpayer prior to the repeal of any law authorizing such tax after such law is repealed pursuant to this act.

(c) Limitations on adoption of personal income taxes and earned income taxes authorized under Chapter 3.—A school district that adopts a personal income tax pursuant to Chapter 3 may not adopt an earned income tax. A school district that adopts an earned income tax under Chapter 3 may not adopt a personal income tax.

Section 1102. Transitional taxes.

(a) Transitional taxes for school districts other than 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) Any school district, other than a school district of the first class, may continue to levy, assess and collect a real property tax for fiscal year 2013-2014.

(2) For all fiscal years beginning after June 30, 2014, no school district shall have any power or authority to levy, assess and collect any real property tax, except as necessary to fund the annual debt service payments for its outstanding debt in existence on December 31, 2012.

(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) 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, 2013 at the rates in effect on that date for the use of a coterminous school district of the first class for fiscal year 2013-2014. The authority to levy, assess and collect such taxes for the use of coterminous school districts shall expire at midnight on December 31, 2013.

(2) For all fiscal years beginning after June 30, 2013, no city of the first class shall have any power or authority to levy, assess and collect any of the taxes identified under paragraph (1) for school purposes, except as necessary to fund the annual debt service payments for its outstanding debt in existence on December 31, 2012.

Section 1103. Consideration of State appropriations or reimbursements.

The personal income or earned income tax levied shall not be invalidated by reason of the fact that in determining the amount to be raised by such tax no deduction was made for appropriations or reimbursements paid or payable by the Commonwealth to the school district.

Section 1104. Taxes for cities and school districts of the first class.

Notwithstanding any other provision of the Public School Code of 1949 or any other law to the contrary, nothing in this act shall be construed to limit or impair a city of the first class from levying, assessing or collecting any tax for municipal purposes or from

increasing the millage for real estate taxes or revenues if the revenues derived from the real property tax are used solely for municipal purposes.

CHAPTER 12

INDEBTEDNESS

Section 1201. Expiration of authority to issue debt.

No school district, including a school district of the first class, shall incur any electoral debt, lease rental debt or nonelectoral debt under 53 Pa.C.S. Pt. VII Subpt. B after the effective date of this section unless such debt is authorized under Chapter 3 or any other law.

Section 1202. Notices and reporting by school districts of debt outstanding.

(a) Duties.—

(1) Each school district, including a school district of the first class, shall identify the outstanding amount of all electoral debt, lease rental debt or nonelectoral debt incurred as of December 31, 2012.

(2) On or before September 30, 2013, each school district, including a school district of the first class, shall certify and report to the Department of Revenue the outstanding amount of all electoral debt, lease rental debt or nonelectoral debt incurred as of December 31, 2012, together with any information requested by the department in order for the Commonwealth to comply with requirements of this section.

(b) Audit by Department of Revenue.—

(1) The Department of Revenue shall audit each report submitted under subsection (a) and shall certify the amount of each report and the total aggregate amount of all reports to the State Treasurer on or before March 31, 2014.

(2) If the Department of Revenue disputes all or any portion of a report submitted under subsection (a), the department shall not include such amount in the certification to the State Treasurer and shall notify the school district in writing of the exclusion from the certification.

CHAPTER 13

FUNDING PROVISIONS

Section 1301. 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:

"Base revenue." The money a school district receives from school property taxes during fiscal year 2013-2014 less the amount necessary to fund the annual debt service payments for its outstanding debt in existence on December 31, 2012.

"Cost of living factor." The lesser of:

(1) the average annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey and Maryland area for the preceding calendar year; or

(2) the percentage increase in sales and use tax collected under section 702 from the previous calendar year.

"Department." The Department of Education of the Commonwealth.

"Fund." The Education Stabilization Fund established in section 1302.

Section 1302. Education Stabilization Fund.

(a) Establishment.—The Education Stabilization Fund is established as a separate fund in the State Treasury.

(b) Sources.—The following are the sources of the fund:

(1) Money collected by the department under:

(i) section 401; or

(ii) Chapter 7.

(2) All revenue transferred to or received by the property tax relief fund under:

(i) 4 Pa.C.S. § 1408(e) (relating to transfers from State Gaming Fund); and

(ii) 4 Pa.C.S. § 1409 (relating to Property Tax Relief Fund).

- (3) Appropriations.
- (4) Return on money in the fund.
- (c) Use.—The department shall use the fund to make disbursements under section 1303.
- (d) Continuing appropriation.—The money of the fund is hereby continuously appropriated to the department as provided in this act. This appropriation shall not lapse at the end of any fiscal year.
- Section 1303. Standard disbursements to school districts from Education Stabilization Fund.
- (a) General rule.—In fiscal year 2014-2015, the department shall make disbursements to each school district as follows:
- (1) Ascertain base revenue.
 - (2) Multiply:
 - (i) the amount ascertained under paragraph (1);
 by
 - (ii) the cost of living factor.
 - (3) Divide:
 - (i) the product under paragraph (2); by
 - (ii) four.
 - (4) Each quarter, disburse the quotient under paragraph (3).
- (b) Annual adjustment.—In fiscal year 2015-2016 and each fiscal year thereafter, the department shall make disbursements to each school district as follows:
- (1) Take the amount received in the prior fiscal year under this section.
 - (2) Multiply:
 - (i) the amount ascertained under paragraph (1);
 by
 - (ii) the cost of living factor.
 - (3) Divide:
 - (i) the product under paragraph (2); by
 - (ii) four.
 - (4) Each quarter, disburse the quotient under paragraph (3).

CHAPTER 15 MISCELLANEOUS PROVISIONS

Section 1501. Transitional provision.

(a) Sales and use tax.—Notwithstanding the repeal of Article II of the Tax Reform Code of 1971, under section 1504, the department shall have the authority to enforce the collection of taxes imposed for transactions that occur prior to the effective date of this section under former Article II of the Tax Reform Code of 1971. The taxes collected after January 1, 2014, regardless of the transaction date, shall be deposited as provided in section 782.

(b) Other taxes.—Notwithstanding the repeal of any provision of the Public School Code of 1949 or of any other law authorizing school districts to impose taxes, a governing body shall have the authority to enforce, after the effective date of the repeal, the collection of taxes levied and assessed under those former provisions prior to the effective date of the repeal under section 1504.

Section 1502. Construction.

Any and all references in any other act to Article II or any provision in Article II of the Tax Reform Code of 1971 shall be deemed a reference to Chapter 7 of this act or the corresponding provisions in Chapter 7 of this act.

Section 1503. Severability.

The provisions of this act are severable as follows:

- (1) If any provision of this act is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.
- (2) Under no circumstances shall the invalidity of any provision or application of this act affect the validity of any provision in this act that abolishes the power of the governing body and any school district and city of the first class or any other political subdivision to levy, assess or collect a tax on any interest in real property for school purposes.

Section 1504. Repeals.

(a) Intent.—The General Assembly declares that the repeals under subsection (b) are necessary to effectuate this act.

(b) Provisions.—The following acts and parts of acts are repealed:

(1) Section 631 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is repealed.

(2) Any provision of the Public School Code of 1949 and of any other law relating to the authority of any school district to levy, assess and collect any tax on real property and the power of any city of the first class to levy, assess and collect any tax real property for school purposes is repealed upon the expiration of the respective schedule prescribed in sections 1101 and 1102.

(3) Any provision of the act of the Public School Code of 1949 and any other law relating to debt is repealed to the extent that it is inconsistent with this act.

(4) Any provision of the Public School Code of 1949 and any home rule charter adopted pursuant thereto is repealed insofar as it is inconsistent with this act.

(5) Any provision of the act of August 9, 1963 (P.L.643, No.341), known as the First Class City Public Education Home Rule Act, and any home rule school district charter adopted pursuant thereto is repealed insofar as it is inconsistent with this act.

(6) Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is repealed.

(7) All acts and parts of acts that are inconsistent with this act are repealed to the extent of such inconsistency.

Section 1505. Applicability.

Section 1504(b)(6) and Chapter 7 shall apply January 1, 2014.

Section 1506. Effective date.

This act shall take effect as follows:

(1) Section 1504(b)(2) and (7) and Chapters 3 and 4 shall take effect January 1, 2014.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Berks County, Mr. Cox.

Mr. COX. Thank you, Mr. Speaker.

The amendment I am offering today is not new to most of the individuals in this chamber. The concept is fairly simple. It is a discussion of property taxes and do we want to eliminate them utilizing two statewide taxes, the income tax and the sales tax. The details of the proposal have been out there for numerous years. Some of the ins and outs of it have changed as we found additional revenue information. As we get new numbers, we try to modify it accordingly.

For the interest of the members who may not be familiar with it, I will give a brief overview of what it is that this amendment does. In a nutshell, this amendment is made up of what is contained in HB 76, the Property Tax Independence Act. The Property Tax Independence Act was a bill that was crafted with the assistance of 81 taxpayer groups. It was not something crafted in the backrooms by a bunch of lawyers in trying to figure out a way to pull the wool over their constituents' eyes. It was a way that— We sat down and we devised a way that the taxpayers would receive what they needed, which is property tax elimination, and that they would do so in a way that they could handle with their own personal checkbooks. The overwhelming response was always, we would

like our property taxes eliminated and we would like to do it with a sales tax and an income tax.

HB 76, as it is contained in amendment 3448, is not a perfect piece of legislation. I know the discussion has been around the different caucuses, around the Capitol, it is a bad bill; it does not do what it says it is going to do. I am not asking you today to vote on a perfect bill. In fact, I ask any one of you to point out to me a piece of legislation that did not need changes and that did not receive changes once it went over to the Senate. We have voted on amendments that completely change how something is done, and we have done it and sent it over to the Senate, they have made some additional changes, and we voted on it, and those types of things have become law. The legislative process is not a process of introducing a perfect bill and then voting on it as is. However, since I cannot seem to get a commitment to run the bill on any other level, I am left with putting the amendment up in this form. It is not my first choice. I would love to have the bill run separately, HB 76, and have it come out of committee, have a full discussion on the floor with honest discussion, honest amendments that focus on the ins and outs of the bill. Instead, we are looking at an up-or-down vote on, do you like the contents of HB 76 as it is contained in amendment 3448?

I will move to a summary of the bill for those who may not be familiar with it. Amendment 3448 would take the school property tax, and over a course of years, it would eliminate school property taxes. Initially, school property taxes would not be eliminated to the extent that a school district had outstanding debt. I have received different numbers on this, but some numbers say that 18 to 20 percent of school districts have – or that most school districts have 18 to 20 percent in debt. If that is the case, then under this amendment you would have the opportunity today to vote on legislation that would remove 80 percent of your school district's property taxes in your backyard today. Then over the course of time as your school district's debt is paid down, full elimination would come into play. We limit school districts. We keep them from incurring new debt under this amendment, and in doing so, we ensure the elimination of school property taxes over time. So step one is we eliminate the school property taxes. It does not happen in 2 years. For 15 to 20 school districts, I am told they do not have any debt service or any debt, so 15 or 20 school districts will receive instant property tax elimination. The vast majority, however, will have some level of debt, and depending on when they entered into that debt, that will determine how long roughly 20 percent of school property taxes will stay in place.

Again, are you going to turn down 80 percent property tax reduction now and 100 percent elimination over time because you do not like the fact that you have to pay down that debt? We included that debt – or we chose not to include that debt as replacement for property taxes, because with previous versions of this legislation, we learned that numerous members were opposed to the idea of pulling in school property taxes and school district debt. I heard over and over again as I drafted this legislation, people said, why should we take over the debt of school districts? And so for that reason we chose not to provide school districts with the revenue necessary to take care of the debt, but we leave them with the ability to handle their debt service, making the mortgage payment, if you will, the loan payment on that debt.

As this approach is phased in, people will see income taxes increase. Income tax under this bill will move from 3.07 to 4.34. Now, keep in mind that is an increase in income taxes, but they will receive in the year of full implementation of this legislation, they would already be seeing an 80-percent reduction in their school property taxes, 80 percent. In addition to the personal income tax increasing from 3.07 percent, its current rate, up to 4.34, we would see an increase in the sales tax on existing items. Everything that is currently being taxed at 6 percent would be taxed at 7 percent if this amendment passes.

In addition to that, some additional goods and services will be taxed. We are going to hear a lot of discussion about that today. If this amendment were to pass, there are going to be some additional amendments that go about asking if we should tax this or that or the other thing. But the fact of the matter is, if you are serious about property tax elimination, if you are serious about any decent level of property tax relief, I am not talking about a possibility of relief, which the underlying bill, HB 1189, offers the opportunity. It is currently labeled the "Optional School Property Tax Elimination Act." I think the more appropriate term for it would be the "opportunity for elimination." There is an opportunity there, but there is no certainty. I will leave my comments on that for another time in this discussion, but I repeat, 80 percent of school property taxes would be eliminated under this amendment upon full implementation; in some districts more.

Now, I can go on and I can talk about all the different things that are taxed. I am sure there will be others that bring that out, but suffice it to say, the taxpayers have spoken, and many of you have heard from your constituents. Many of you have heard the idea that school property taxes are absolutely crushing your constituents. There are numerous problems with the school property taxes. We have heard that, oh, we cannot replace it with just a sales tax. I saw an e-mail just a few moments ago from somebody who had contacted their Senator about this very issue. The statement was made, oh, the sales tax. We cannot use the sales tax to take care of property taxes. It is regressive. One of the reasons the sales tax is as regressive as it is in Pennsylvania is because we have so many exemptions. The exemptions that I remove in this amendment and choose to tax under this amendment help to make the sales tax that much less regressive, but that concern about regressivity was actually the guiding factor behind the way I crafted two of the exemptions that I left in place on a partial basis.

Food and clothing. Does anyone think we should tax food and clothing? That has become one of the biggest topics of debate over the last few weeks. Should we tax food and clothing? I struggled with that as I was crafting the language for HB 76, which is contained in this amendment. I struggled with how exactly to handle it to garner enough revenue to replace school property taxes and yet not burden those who are least able to pay. The way I tackled that problem was this: There is a Federal program many of you have heard of, and it is the women, infants, and children program. Within the women, infants, and children program, there is a food list, a shopping guide, if you will. In fact, if you go on the Web site, you can find the Pennsylvania WIC food list shopping guide that explains all the rules and regulations, and then it gives not only a listing of the items that you can purchase under the WIC program but also handy pictures of what the labels look like.

And when you look through this list, you will see the rationale that I then pulled this in from, and the language of the amendment here, while it may not be perfect and some have called into question how exactly I phrased it, but the goal behind the amendment and the exemption for food is to allow individuals, rich or poor, regardless of income level, you will be able to purchase any item on the WIC list without paying sales tax on it. So when you buy Juicy Juice for your children, 100 percent fruit juice, you will not receive – or you will not pay sales tax on that. Before I continue I must say that I get no endorsement revenues from any mention of product names. You can purchase Campbell soups, not all of them, but several soups are listed in this; various types of milk – soy milk, almond milk; other types of things that are listed – fruits and vegetables, frozen vegetables, fresh vegetables.

The reason I chose the exemption the way I did was because I felt that if you want to feed your family, ideally parents want to do so with foods that are healthy. Perhaps I am an idealist and parents do not want to feed their children with healthy foods, but if you do and you go out and you buy fruits and vegetables and milk and other things that have nutritional value as identified not by me but by the Federal Department of Agriculture, who has laid out the guidelines for this program, and the Pennsylvania Department of Agriculture that administers this program, if you are looking to feed your family, this exemption that I have carved out in this amendment will allow you to not pay a tax on the food you purchase for your family.

In the same way that I carved out an exemption to address the regressivity of the food that people purchase and the concerns they had for low-income people being able to provide for their families, I looked at the exemption we currently have for clothing, which is a full exemption. Sure, there are some details that say the exemption does not include fur coats and some other luxury-type clothing. I understand that. So in the original drafting of that, there was an acknowledgement that some clothes may not be as necessary as others, but I whittled it down a little bit further, and I said, if you want to put clothing on your family's back, if you want clothing, where can we go? What can we do to tax clothing in a way that we can garner some additional revenue to eliminate school property taxes? What can we do there without burdening the lower-income families, those who are most affected by a sales tax on things like food and clothing? As we looked at that, I and the other individuals who were involved in drafting this, 81 taxpayer groups as represented by the heads of the different organizations, we came to the conclusion that if we taxed items that were \$50 and higher of clothing, we would still allow families to clothe their – parents to clothe themselves, clothe their children, without burdening those with lower incomes. If you are in financial straits and you need to buy new clothing, I daresay you can probably go – most counties in the State have at least a handful of places you can go to purchase clothing where you can buy a pair of pants for less than \$50, where you can buy even a shirt and a tie each for less than \$50, and that brings me to a nuance here in that particular exemption. If we were to combine all these items, we would very easily be over \$50, but the exemption does not say it that way. The exemption that I have crafted in this amendment says that food – or says that clothing that is over \$50 per item, that is when it is taxed. You can buy a pair of pants for less than \$50 and pay no sales tax. You can buy a dress shirt for less than \$50 and pay no sales

tax. You can buy a tie, and I will not go on and on, but you can clothe yourself without paying sales tax on top of the cost of the clothing. Those are the two biggest exemptions.

I will not go through all of the changes that I made. They were numerous. In order to garner the revenue we need to eliminate school property taxes, we do have to tax additional goods; we do have to tax additional services. So in an attempt to avoid the sales tax from being too regressive, we carved out those types of niches.

The income tax has always been touted as being the least regressive because it is directly based on an individual's ability to pay. In fact, that is where we lean for the bulk of the revenue. A good part of the revenue comes from the sales tax, but a large portion of the revenue for replacing school property taxes in fact comes from the income tax, which is directly based on an individual's ability to pay.

The property tax has been seen by experts as being generally regressive. Nationwide low-income families pay 3.7 percent of their income in property taxes, middle-income families pay 2.9 percent of their income, and the wealthiest taxpayers pay just 1.4 percent. Property taxes are clearly regressive, and it was often stated in earlier discussions of this, what is more regressive than a tax that if you refuse to pay it – or worse yet, most people do not refuse to pay their school property taxes. There may be a few people out there who say I am done and I am not paying it, but by and large, people want to pay. In fact, they will feel they need to pay their school property taxes in order to stay in their homes. A tax should not push you out of your home. The taxpayer groups rally that no tax should have the power to leave you homeless, and I am here today to echo that sentiment. No tax should have the power to leave you homeless. The chief reason that property taxes are in fact regressive is that they are based on home values rather than income levels. Unfortunately, home values do not always connect directly with income levels. Home values often represent a much larger share of income for middle- and lower-income families than they do for the wealthy. It is common for a middle-income family to own a home that is valued at two or three times their annual income. Wealthier taxpayers are much less likely to own homes that are worth that much relative to their income.

Additionally, property taxes, unlike the income tax, are not responsive to a variation in an individual's income. Someone who suddenly loses their job finds that their property tax bill remains unchanged. Their income tax bill virtually disappears, but their property tax bill remains the same.

Elderly taxpayers – we have all received those calls – the individuals whose income has fallen off because they have reached the end of their working career, they are living on a pension; they are living on investment income. Elderly taxpayers are much like many of our farmers in this Commonwealth. They are property rich but cash poor. We have carved out some assistance programs to help some of those farmers and help the agricultural community because we understand that. We have an opportunity today with amendment 3448, we have an opportunity to provide statewide relief for not just the elderly, not just the agricultural community, but for every property owner in Pennsylvania.

Speaking of the agricultural community, years ago the United States, Pennsylvania included, was an agrarian society. The property tax was in fact at that time a fair tax, because if I owned a large portion of land, there was a pretty good chance

that I was farming it and I was receiving income from the crops that I grew on it. If I was not using it for crops, I might have had a stable, I might have offered a service from the use of my land, and it was based on that that the property tax was put into place. We are not in 1830s America anymore. The vast majority of Pennsylvanians, the vast majority of Americans do not earn income from the ownership of their land. There is a huge disconnect there, Mr. Speaker. People no longer earn the vast majority of their income off their land. They may have a little roadside vegetable stand, but they are not making enough to pay their school property taxes from those roadside stands.

The fact of the matter is, many of us are concerned about people who are unable to pay their income taxes, whether that is a low-income individual, whether that is a senior citizen, whether that is our next-door neighbor who has lost his job. Both low- and middle-income families, though, still have most of their limited wealth tied up, invested in their homes. When an individual who has that much tied up in his home loses his job, they have nowhere to go. School property taxes begin to crush them. We have seen record-level foreclosures over the last several years. Now, I am not going to stand here before you today and say that there were not a lot of people that entered into mortgages that they just could not afford. I know there were some problems there. But I also find it significant that tax liens and sheriff sales have continued to increase even though housing values have begun to stabilize and in fact improve. People are still unable to pay. People are still being forced out of their homes. We have the opportunity today to make a change to that. We have an opportunity to vote on an amendment, and again, I stand before you today not to tell you that that amendment is perfect, not to tell you that that amendment could not improve with some language changes, with some drafting changes. I am one man. I utilize the Legislative Reference Bureau like many of you do. The product that came back to me was the product you see contained in amendment 3448, which mirrors HB 76. So today you are going to hear people say, oh, there are drafting errors; there are flaws; there is this, and there is that.

I want to address one of the larger questions that we have heard about. We have heard it for years. I have been working on this issue since I was a staff member in Representative Sam Rohrer's office. Sam Rohrer was one of the pioneers on this issue along with individuals like Kerry Benninghoff and Mario Scavella, who put this issue out there. A number of individuals worked on this over the years. This is not an issue that is new. This is not an issue that can be easily solved. But the question today that we have is, do we want to replace school property taxes? Do we want to replace them with a statewide sales tax and a statewide income tax? You are voting on the basic construct. You are voting on that concept.

You are voting on that principle. Do you believe school property taxes are a fair way to fund our schools?

I would like everyone to pause for a moment and think about the equity, or should I say the inequity of our current system of taxation and funding for our schools. Currently, regardless of the level of funding that your school district receives, school districts are charging a property tax to every resident who owns a home. Every individual who is renting an apartment or renting a home, they are also paying a portion of that rent that goes toward payment of property taxes.

My question is this: Is a student in Crawford County worth less than a student in Berks County? Is a student in Allegheny County worth more or less than a student in Philadelphia? Organization after organization after organization comes out and talks about the inequity of our school property tax system. Over and over we see how students are in school districts where the school property tax system is providing twelve, thirteen, fourteen thousand dollars in one district and that same system is providing two and three thousand dollars in another school district. An attempt is made with the basic education funding formula to equalize that on some level, but as these organizations will tell you, those disparities are still vast.

The Pennsylvania Constitution says that Pennsylvania, that the General Assembly – Mr. Speaker, that is you and I; that is that group of men and women across the rotunda in the Senate – we are responsible to provide a thorough and efficient system of education.

Now, there are those who say that we need to increase the – make changes to the basic education funding formula and I agree with that. School districts that are losing population, they should not be receiving the same dollar amount today that they received in 1991. They should not be receiving those same levels, but that is a different discussion for a different day. But what that has led to is school districts that when they are not receiving an appropriate share of funding from Harrisburg, they lean on the local taxpayer, and the reason we are standing here today and discussing school property taxes is because that balance has tipped.

Last Tuesday taxpayers converged on the Capitol. This was probably the fourth or fifth rally that I have seen over the last several years where people have come and they have tried to convey to their legislators the importance of this issue to them and their families, to their loved ones. As we discuss this issue, we need to answer the question, how is the property tax system fair? And as we consider the underlying bill, HB 1189, I want you to consider that you will be perpetuating the inequities contained in the school property tax system.

However, if you vote for HB 1189 as it is amended by amendment 3448, with this amendment you have the opportunity to begin to shift away from those inequities. We can begin the discussion of how much funding each student should receive. We can take away those inequities. We can make education mean as much in one school district as it does in another, and we can ensure that we are appropriately funding each student's education.

The larger approach behind HB 76 as it is contained in this amendment is a shift away from an overreliance on property taxes. Pennsylvania depends more on property taxes – and this is important. Some people say, oh, Pennsylvania does not have a property tax problem or my district does not have a problem. In national studies, in a review of national tax environments, it is shown that Pennsylvania depends more on property taxes to fund schools than most other States do.

In 2009 State funds accounted for 43.5 percent of school expenditures; local funds accounted for 44 percent; Federal funds, 12.5 percent. That is the national average. However, in Pennsylvania only 35.7 percent of education came from State sources and 53.1 percent was contributed by local taxpayers, 8 percent less came from the State and about 9 percent more came from local taxpayers. We are crushing our local taxpayers.

The quality of a child's education should not be determined by his or her ZIP Code (Zoning Improvement Plan Code). I am going to touch back on that because one of my colleagues has said, and I hope I do not steal his thunder, one of my colleagues has said repeatedly, let us think about what happens to a student, a student who is sitting in a home. He begins a school year in a school district. He makes friends. He gets comfortable with the teacher. He feels comfortable going to the teacher asking for assistance. Suddenly his parents notify him, guess what? I do not think we are going to be able to pay our school property taxes.

It is January, they thought they were going to be able to pay even in the late paying period for their property taxes, but they come to their child and they say, we are not going to be able to pay our property taxes and we fear we are going to have to leave our home. Not feeling like they have another option, they put their home up for sale, for rent, whatever they can do to make sure that they can continue providing a roof over that child's head. Many parents will do their darndest to make sure that that child stays in that school district because they understand the importance of the stability of that educational structure that that child has adapted to.

Unfortunately, the stark reality is this: The school property tax is leaving a lot of parents with no choice, no choice but to move to a neighboring school district that may or may not have a comparable education system, but they move to a neighboring school district, and as good as the neighboring school district may be, that child finds himself facing a whole new group of teachers. That child finds himself in a sea of strangers. Friendships that were formed, comfort levels that were gained, they are all lost.

So I ask you, why do we want to perpetuate a system that wreaks that kind of havoc on a family, on the stability of our society? Why do we want to perpetuate that with the underlying bill that leaves property taxes in place, by and large, and gives school districts an ability to tax people at a greater level, when we have the opportunity with this amendment to fully shift away from that flawed method of taxing? That flawed method of saying, you put a deck on your home? Guess what? Your property taxes are going up. You put a new roof on your home? I think your property taxes are going up. I ask you, how is that fair? I ask you how that creates any level of stability in our society and in our individual communities.

Mr. Speaker, amendment 3448 differs greatly from the underlying bill and the language of HB 1189. We have seen attempts at providing options similar to what is contained in HB 1189. And I thought about mentioning this later on, but I am going to put it out there now, because really, what this is about is the options available to us. We have an option to provide some local optional property tax relief or we have the opportunity to completely replace the school property tax with some very stable statewide taxes. Sales tax and income tax, when you look at them in their combined respective, they are very stable. They are almost as stable as school property taxes.

One of the main reasons the school property tax is so stable is because people run the risk of losing their homes. When you are faced with losing your home or paying the school property tax, most people figure out a way to do it. It is getting harder and harder, but they are still figuring out a way to do it. They are tired of school property taxes, but providing a local option – I am going to talk about a few attempts that were made.

Act 145 in 1988 attempted to use a personal income tax to reduce overall property taxes. That was voted down because there was no other tax that was being eliminated. So people realized that one tax may go down temporarily while another one went up. Meanwhile, because there was no cap on it, because there was no elimination of any tax, both taxes would rise again, putting them in a position that was even worse than what they had started in. So Act 145 did not provide any relief. It was voted down 3 to 1 by the public.

In 1998 the legislature, our predecessors, attempted to provide some local relief under Act 50. Under Act 50, school districts had the ability to decide. The school board directors were given the opportunity to determine if they wanted to utilize an earned income tax to reduce school property taxes. I am told that only four school districts adopted that approach and chose to enact an earned income tax to directly reduce their school property taxes.

In 2004, Act 72 was passed. This gave school districts an additional authority, a parallel authority that said, if you want to reduce school property taxes, you can enact an earned income tax. Now, I have to be honest here, the response to that was double what we saw under Act 50, meaning not 4, but a whopping 8 out of the 501 school districts at that time, 8 adopted an earned income tax in favor of reducing their school property taxes.

Finally, in 2006 we said, okay, wait a minute; we are going to try this a little bit differently. This was again before my time, and the way I calculated it, there are about 121 of us who are new and did not cast this vote. So maybe it is something we want to try again. We will see as we go forward today. But our predecessors said, let us try it a different way. Let us give the people the ability to say whether they want this or not.

So Act 72— I mean, I am sorry. In 2006, Act 1, which was done in a special session, Act 1 required school districts to go to their voters and say, do you want to remove part of your school property taxes, to reduce them if you will, and pay a little higher earned income tax? Now, you would think, that the first time we got 4, the second time we got 8, you would think we might get 10, 12, maybe 16, maybe another doubling effect.

In 2006, however, as those referendums were done around the State, required by Act 1 of 2006, those referendums failed 2 to 1 in some areas and 3 to 1 in others. Zero school districts had their people saying, we want to remove a portion of our school property taxes and replace it with an earned income tax. People realize they are going to end up paying more in earned income tax and their property taxes are going to continue to go right back up, and then they will be whacked with a high property tax and a high earned income tax, and they will be even less able to pay those taxes.

History has shown us that Pennsylvanians do not want the type of opportunity, the type of option if you will, provided for in HB 1189, and that is why I found it imperative to take the language of HB 76 and insert it into an amendment and give the members of this chamber the opportunity to say, enough with the local options, enough with the partial relief that is going to disappear in a few years, or partial relief that is not going to come because very few or maybe even no school districts will adopt this. I felt I had to offer an option, and that is what is contained in this amendment. It is an option.

And I will stress again, it is not a perfect amendment. The legislation that— Amendment 3448 does contain some drafting

issues, some drafting concerns. Make no mistake, I am working with our staffs and other agencies to get the information necessary to correct those things. But I felt at this point I needed to offer a true option, an option that provides a level of relief that has never even been offered to our constituents.

You have the opportunity today to make history; you have the opportunity to send a comprehensive approach to school funding over to the Senate. You have an opportunity to decide if you want to continue funding school districts inequitably, continue treating one student as if he is worth less than another.

Mr. Speaker, I believe there are numerous reasons, and I have only touched on a few today. Each of us has received phone calls and e-mails and faxes and letters. Some of us have received petitions from people in our districts and all around the State. This issue is not going away. This issue will stick around until we have done something meaningful.

I have offered amendment 3448 as a meaningful approach to addressing our school property tax problem. I am very passionate about it, some might even say bullheaded, but when you live in a district like mine in Berks County, it is something you hear about on a daily basis. Many of you have had people sitting in your office crying about losing their homes. Their parents are losing their homes. They do not know what to do. This is an option that we cannot afford to ignore.

I would appreciate your "yes" vote on amendment 3448.

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the minority whip, who requests a leave of absence for the gentleman from Allegheny County, Mr. KORTZ, for the remainder of the day. Without objection, the leave will be granted.

CONSIDERATION OF HB 1189 CONTINUED

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

Our challenge here today is how to balance support for our children's education in public schools with reducing local property taxes, arguably the most unfair tax levied in any State.

There have been many attempts over the years to reduce our reliance on property taxes. Nothing we have done so far has solved the problem. State and local referenda have failed to pass; gaming revenue has not been sufficient. We as a legislature have added to the problem by increasing school employee pensions, but not funding them; diverting resources to charter and cyber charter schools; diverting resources to private and parochial schools; and now, for the last 2 years, cutting General Fund appropriations, leaving local school boards with little choice but to raise property taxes.

HB 76 is terribly flawed. The bill is poorly drafted with ambiguous language. It gives the largest multistate and multinational corporations huge tax breaks while harming small business, and it may very well be in violation of our Constitution's uniformity clause. But since I have been asked repeatedly back home why I will not cosponsor the bill, I would like to take this opportunity to discuss some of the problems

that have been identified by others and which the prime sponsors of the bill have failed to address.

I would refer you to the Department of Revenue analysis of HB 76, dated June 17, 2013. Page 6 of the Department of Revenue analysis points out that "The clauses need to be clarified as they appear to be contradictory." That is section 701.1(b.1). Later on, on that same page, it says, "...the recipient/user is in the Commonwealth, then it is presumed the service was performed completely in PA?" Same page, page 6, "The entire subsection based taxation on location of recipient or user, not purchaser. This should be clarified." There are numerous, numerous examples in the Department of Revenue analysis of language that needs clarification, language that is contradictory.

And on page 9, they raise the constitutional issue of uniformity. And on page 10, there are two more instances and areas of HB 76, the Cox amendment to 1189, that raise issues of constitutionality. Now, should any of these sections become law and the courts get a hold of them and decide that they are unconstitutional, there is a severability clause in the bill that means the revenue generated from those sections is gone. And so the bill would not be revenue-neutral as the prime sponsors of House and Senate bill 76 claim.

Let us turn now to a document that I was given that I believe was, in fact I am sure was drafted by the House Republican Appropriations Committee staff. Page 1, it is a document entitled "Taxation of Services," page 1, "Example of Conflicting Language within HB 76." Instance after instance, there are five bullets here, conflicting language within HB 76. Just below that, examples of language that needs to be defined. We should not be leaving to the Department of Revenue to decide what we are taxing and how we are doing it. This is our responsibility.

And I am sorry, but I am not buying it that we are just voting on a concept here. We are voting on a piece of legislation that has the chance to become law. Surely the sponsors of this legislation should have discovered these areas of the bill that are flawed and need clarification before they reintroduced it as HB 76.

Let us turn now to another document that I have. It is a letter dated September 24, 2013, from a group called Coalition for Fairness in Property Tax Reform. This is a document, a letter, signed by the Pennsylvania Chamber of Business and Industry; Pennsylvania Manufacturers' Association; Pennsylvania Retailers' Association; the National Federation of Independent Business; the Bar Association, Pennsylvania and Philadelphia; Pennsylvania NewsMedia Association; Broadband Cable Association; Pennsylvania Petroleum Association, among others. This is the business community asking questions that need clarification in HB 76. I will not read the entire document, but I would refer you to it. These documents will all be available on my Web site.

I will now refer you to a draft of the Independent Fiscal Office analysis of HB 76. We just received this draft – it is called a proof – of the analysis today. It will not post to the Independent Fiscal Office Web site until late on Thursday. But I feel compelled to bring it to your attention and to point out what some of the problems with the language and the bill are as referenced by the Independent Fiscal Office, because if you listen to the prime sponsors and the proponents of this legislation, they would tell you that the Independent Fiscal Office, as a result of the last analysis that was done for 1776, this bill is the best thing since sliced bread.

But I would point out to you that on page 1, in summary of results it says, the analysis finds that there is no discernible fiscal impact in the first year, 2014-15, but the proposal has a negative net fiscal impact over the subsequent 4 years contained in the forecast. And the following page, they reference the net fiscal impact in 2018-19 as being over \$1 billion. This is not me saying that, it is the Independent Fiscal Office saying that, and I refer you to their document.

On page 13, "Although these secondary impacts increase revenues, it should be emphasized that the new tax system penalizes consumers because both taxed and non-taxed purchases will fall, and that penalty is not included in the analysis. Consumers are penalized due to higher after-tax prices and, for many, higher federal income taxes. Both reduce purchasing power and cause a reduction in the consumption of taxable and non-taxable goods and services." And I would argue that this is probably why all of the business groups – well, I will not say all, but the ones I have heard from, have come out in opposition to HB 76.

Page 23 of the Independent Fiscal Office analysis that we just received today talks about the net impact on the City of Philadelphia, a negative \$306 million impact in 2018-19.

Page 30 of the Independent Fiscal Office analysis says, "...the gap between the revenues and the property taxes that they must replace generally widens with each passing year." And finally, again in the Independent Fiscal Office analysis, there is example after example of ambiguous language regarding taxation of certain services, begins on page 34.

I would ask you now to refer to the fiscal note on this amendment. On the second page of the fiscal note that I have before me, it says, "The language in the amendment contains several technical drafting errors." And then it says in the third paragraph, "Additionally, there are several sections contained within the bill that conflict with each other." Then on the final page of the fiscal note, it says, "Regarding local taxes levied by the City of Philadelphia for use by the School District, it is estimated that the school district will lose \$200 million in revenues as the legislation prohibits the levying of any tax by the City for the use of the school district." And then again in the final paragraph, it says, "...the language in the amendment would reduce funding to school districts by \$674.4 million in 2014-15 as there is no mechanism in the amendment to reimburse school districts for the lost revenues received from the State allocations of slots gaming revenues under Act 1."

Again, Mr. Speaker, this bill is not ready for prime time. And if I were going to introduce a bill that eliminates property taxes, I would most assuredly make every effort to make it a bill that is worth putting before this legislature. We should not be leaving it up to the Department of Revenue to fix. How do they fix conflicting sections of the bill? How do they determine what is being taxed and how we are doing it? And that is why this bill is not ready for prime time. These are the flaws that I have been talking to my constituents about.

And, Mr. Speaker, nobody cares more about property tax relief than I do. I have been working on this issue trying to find ways that we can bring a bill before this body that will guarantee 102 votes here, 26 votes in the Senate, and the Governor's signature. If it were easy to do, we would have done it long ago. And we do need to address this issue. We could start by fully funding public education through the State budget.

Mr. Speaker, this has been a very difficult issue; very, very difficult issue. And while I can support the concept of a shift from property to sales and income, this bill is not really ready for prime time. It needs work.

Again, the prime sponsors of this legislation should have taken the guidance of those who pointed out the flaws in 1776 before they reintroduced it as HB 76. Had they done that, we would have a much better idea of what it is we are voting for.

So thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Saccone.

Mr. SACCONI. Thank you, Mr. Speaker.

I rise in support of this amendment.

You know, people can disagree over which method we should use to reduce property tax or eliminate property tax, but they ultimately need good information to base their decision on. And hopefully, I will try to clarify some of the misinformation that I have heard over the last few days.

This is a number one priority in my district, as it is in many districts across this State. Property tax is an unfair and immoral tax because it hurts the people that have the least ability to pay, people on fixed incomes in their most vulnerable moments. Just because on paper your house is worth more does not mean you have any more ability to pay an additional tax. So if I am a senior citizen and I am making \$1,000 a month on my retirement and my house that I have had for 40 years, it was worth \$60,000 and now it is reassessed and it is worth \$80,000, and so my property tax goes up, but I am not making any more money, the tax itself is unfair.

Last Friday is a perfect example, and I get a lot of these, but a son came to my office in despair, and he brought with him his mother's assessment which had just gone up \$20,000. He put it on my desk and he said, Rick – his mom's name is Sylvia and he said I could use her name – he said Sylvia, she can no longer, with this rise in her property tax, afford her home and she is going to have to give it up. She is going to move in with me for a while. But this is the home she spent her whole life building with her husband, paying off, and now she has to give it up. And I have scores and scores of examples like this.

And I know assessments, it is related but it is a little different story, but I sat in the appeals room, the assessment office of Allegheny County, as probably many of my Allegheny County colleagues did. It is a big room and there are lots of people in there. Husbands and wives sitting there wringing their hands saying, you know, Agnes, what are we going to do? My assessment has gone up \$50,000 and I do not think we can pay for this house anymore. I do not think I can afford the property tax. We are going to have to give it up.

Right next to them is another couple. Flo, what are we going to do here? My property tax assessment has gone up. We are not going to be able to afford our house. What are we going to do? What are we going to do?

Eliminating the property taxes was on the minds of all of these people. I just sat there listening to them in awe of their stories. It was crushing me.

And I would like to take my colleagues with me as I knocked on all those doors, tons of stories, scores of stories like that. One in my neighborhood, Ruth, she said, Rick, I have been taking

money out of my savings to pay for my school property tax for the last 5 years. I have got about 1 year left and I have to give up my house. I am going to have to move out of this house that I have been in all my life. When are you going to eliminate this property tax?

You know, owning a home is a core American value. And HB 76, the amendment that we are faced with today, will protect our homes from the threat of loss due to a government tax. You know, we have nearly 5 million occupied housing units in Pennsylvania and 3.5 million of those are home-owned. And in addition, homeowners have a larger household size than renters do. The school property tax is the biggest tax and it hurts our seniors and people on fixed incomes the most, because they might have to surrender that home. This is unconscionable and we have a chance to remedy that with this amendment.

You know, some people say, well, this is just a tax shift – this is one of those myths – this is just a tax shift, and I am not for a tax shift. Well, now, I do not like the word "tax shift" because HB 76 is more of a tax spread, not a shift. Think of it as a spread. We are spreading responsibility, not just among homeowners, not just among property owners, but we are spreading it out across everybody in this State because everybody pays sales tax. Even tourists passing through the State pay sales tax. So we can even have out-of-Staters helping to fund our school system.

The rising cost, as you all know, we have said it many times on this floor, the rising cost of education is a direct result of salaries, pensions, and benefits, which soar to about 75 percent of school district expenses. I hear a lot of people say, well, in these options that we have out there, what about spending? Nobody says anything about spending. How do we control spending?

Well, one of the beauties of HB 76 is, it has the greatest cost-control method ever devised in the history of mankind – the voter referendum. So any increase, after the dollar-for-dollar swap, any increase that a local school district wants to have – where they want to buy a new stadium, they want to build a new stadium, they want to give teachers a big raise – they have to do it with local tax and they have to take it to a voter referendum. That keeps costs down, because they know they have to be reasonable with the expenses or it will never get approved by the voters, and that will certainly rein in out-of-control expenditures.

How about the economics of this? People say, well, what is this bill going to do to the economics of Pennsylvania? Well, that same IFO report that was quoted earlier, the one before that says, without question, elimination of the school property tax enjoys the added benefit of sparking an economic boom, allowing more people to buy and improve their property, because there is more disposable income that people will have in their pockets. So this amendment will add to the economy of Pennsylvania.

And one of the biggest complaints I hear from people is, well, this bill does nothing more than move the power to Harrisburg, from local control to Harrisburg. It could not be further from the truth. It is actually the opposite of that. Because in the initial phase where we have the dollar-for-dollar swap, everything above that, as I said before, will be borne by the local school boards. They will decide whether they want to build that stadium; then they will have to have their own local sales tax increase, their local EIT (earned income tax). It will all be on them, anything above the rate of inflation will be on them

and it will have to go through a voter referendum. So the power will be right back where it is supposed to be at the local level, where we all enjoy it, local control. And school districts, it does not change anything about the curriculum. School districts have always controlled their curriculum, and they still will control their curriculum.

But it is a responsibility of the Assembly to oversee a structure for providing for schools. You know, our Pennsylvania State Constitution, Article III, section 14, has this simple sentence in it: "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth." It is our responsibility, this General Assembly, to make the structure to make that happen.

Now, other options out there provide a partial relief, but we know, and the taxpayers know, partial reliefs never work, because school districts would just raise their expenses to meet whatever relief was given. That is why the casino scam did not work and the taxpayers are on to that. They ask about it all the time; they complain about it all the time. The only way to deal with this issue is to eliminate the property tax.

And while the teachers' union may be against HB 76, many teachers are not because they e-mail me and they talk to me, and they say, look, I am for it, Rick; I am a homeowner; I am for this bill; I just cannot speak out on it publicly or I would get ridiculed. We have got to stand against that pressure.

There are other special interests that are going to complain that they are being taxed. But this is not about special interests; this is about the taxpayers. That is who we are looking out for here. But not all special interests agree on that. The Pennsylvania Association of Realtors is behind this bill. The Pennsylvania Apartment Owners Association is behind this bill. The Farmers Bureau and the Grange testified at our last year's Finance Committee meeting that they supported HB 1776. So you are going to get a mixture of special interests for and against, but we have to be above that. We have to concentrate on the needs of the taxpayers.

You know, when I look around every day, I talk to people, I go to town hall meetings. People have lost their faith in government and in many cases, for good reason. People tell us what they want, but we do not do anything about it; we do the opposite, they say. We tell the politicians what we want, but then they do the opposite. People want this amendment. They want us to eliminate property tax.

You know, I had two big forums, public forums, just on property tax elimination. We invited in people to speak, and we had pretty good crowds there. And we talked several hours, people voiced their complaints. And I gave everybody a ticket when they came in the door in both of these sessions. And as they were leaving, I said there are two bins on the way out. There is one bin that says, I am for HB 1776 – or 76, and I am for anything else. And on both of those public forums that I had, when the people left, I went up and the bin for HB 76 was completely full and the bin for anything else was empty – not one ticket in it. So the people want this bill. The question is, are we going to give it to them or are we going to give them something less than that or are we going to give them something that is an illusion, an illusion of property tax reform and not real elimination?

I will end up with, there is an old saying that says that in government, the difficulty lies, not so much in developing new ideas as in escaping the old ones. We know we face that a lot

around here. We have got to escape this old notion of how we fund school districts. We have got to bring in some new ideas. And while this idea may have been around, it has gone through a couple of iterations, this is a good plan. It is the plan the people want.

So I beg you all to do the courageous thing and vote for this amendment and back HB 76. Thank you very much.

THE SPEAKER PRO TEMPORE (JOHN MAHER) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Allegheny County, Representative DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I want to speak to the senior citizens out there, because the fact is, a lot of them are getting the wrong information. When I say the wrong information, they need to know the details of this piece of legislation.

Now, any one of us here, who would not be for eliminating property tax? It is a no-brainer, for crying out loud. Let us also remember, if this was such a good bill, with the Governor's polls showing so low right now, if he would come up with this bill and say, I am supporting this bill, it is such a good bill, he would be reelected tomorrow, and we should not even run any Democratic candidates against him. But, Mr. Speaker, this is a tax shift. Whether you like it or not, it is a tax shift. It is shifting the burden from one group to another group.

Now, I understand seniors need relief, property tax relief, but this bill does not do it, because what we are doing, we are shifting the burden from one group of seniors to their children and their grandchildren who cannot even find jobs today. And when I tell the seniors about this bill, that I am not for it, and tell them if that is what you believe your children and grandchildren can afford to pick up the burden of eliminating this property tax, they say, no, they are not working, Representative DeLuca.

The second thing, Mr. Speaker, I find it outrageous that we are going to be eliminating property taxes on millionaires and billionaires. That is ludicrous, for crying out loud. This bill is a bill for millionaires and billionaires; we want to give them a tax break. Let us not kid ourselves, we want to give them a tax break under the guise of providing property tax relief to senior citizens. That is wrong.

Now, if you want to really have the guts, let us pass the legislation and let us vote on it and we will not give the option out there because it should be good to all the school districts. We want to go back home and say, we did not raise these taxes; your local school board raised your taxes. You cannot even get people to run for school board today. But we want to say that — the State legislators did not do anything, go see them, like we did the drink tax in Allegheny County. We gave that to the chief executive and he raised it, and believe me, all heck came out when they found out they had to pay 10 percent sales tax on their drinks. That was just on drinks.

Mr. Speaker, I think when the senior citizens realize what all the particulars are in this bill, we heard about all the statistics. They are paying attention to the statistics, sounds good, that we want to let the school districts put it at the ballot box.

Well, here is what really happens, and we all know this. We know seniors vote and young people who are working two or three jobs trying to make ends meet, do not have the opportunity because we cannot even get early voting bills here right now to vote. So naturally, when we put this on the referendum and you have the special interest groups, the business community, who are going to spend the money to get the referendum passed so they can eliminate their property tax, and to this day, I just do not understand this. Somebody who has a \$4 million home, we have to eliminate his property tax because he is having a tough time paying them.

The SPEAKER pro tempore. Would the gentleman suspend for just a moment. The Chair has been listening closely to your remarks, and it seems as though your remarks are focused on the underlying bill and not the amendment. I just wanted to ensure that you are—

Mr. DeLUCA. Thank you, Mr. Speaker.

The SPEAKER pro tempore. I am not disputing your remarks; I am just asking you to try to be on the amendment, the first amendment of many on a long night.

Mr. DeLUCA. Well, I appreciate that, Mr. Speaker, but I heard the other speakers, and they certainly were not on this amendment from what I heard on it, so I understand—

The SPEAKER pro tempore. With all due respect, you are recognized on the amendment, not otherwise.

Mr. DeLUCA. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Thank you.

Mr. DeLUCA. Thank you, Mr. Speaker.

But I want to also mention the fact that on this amendment, while we shift the burden to the workers out there and we say taxes should be based on the ability to pay, who are we saying that these taxes are based on? Is somebody who works two or three jobs to make a living today, to support his children, his family, to send them to school and that there, does that mean they have the ability to pay when they have to work three or four jobs in the family? That is totally ludicrous.

I am for doing away with property tax. As a matter of fact, one of our colleagues in the last session who ran for Governor had a bill to eliminate all the property taxes, not just school property tax, county and local taxes. And unfortunately, the previous speaker said that we do not listen to the people. This is what the people want, but unfortunately, the people did not want that because he did not win the last election.

Mr. Speaker, I ask my colleagues in this House to vote "no" on this amendment. It is a bad amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Westmoreland County, Representative Evankovich.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

Would the maker of the amendment rise for a brief interrogation?

The SPEAKER pro tempore. The gentleman indicates that he will receive your interrogation. You may proceed.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

Mr. Speaker, in your amendment, my understanding is that all tax revenue for school district operations excluding debt would be paid in terms of sales tax and income tax collected in the Capitol and then distributed back out to the school districts. Is that correct?

The SPEAKER pro tempore. That is one way to stifle debate. Apologies. You may proceed.

Mr. COX. In answer to your question, Mr. Speaker, yes; that is correct. All sales and income tax would go to – it actually does not go to the State General Fund, as some might think. It goes to an educational stabilization fund, which is a fund that would be created to make sure that the fund stayed within that particular – to operate schools and replace school property taxes. It is a defined fund, if you will.

Mr. EVANKOVICH. So will those funds be remitted separately to the State Treasury?

Mr. COX. The ins and outs of it are essentially the fund is kept separate from the General Fund. The money is then dispersed through the channels that are typically available for disbursement, Department of Education and otherwise. No new mechanism is created, but those funds will be driven out to the school district using existing mechanisms.

Mr. EVANKOVICH. And the amounts that go to each school district are based on what formula?

Mr. COX. There is not a formula; there is a dollar-for-dollar replacement. And by dollar-for-dollar replacement, I mean that if your school district is bringing in \$1 million in school property taxes, they will receive, as a starting point, they will receive \$1 million in replacement funding. If it is \$10 million, they will receive \$10 million and so on.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

And in years 1, I understand how that would work. What about in the out-years – years 2, 3, 4, and so on?

Mr. COX. In the years that follow the initial driving out of the dollar-for-dollar replacement, we will see an inflationary index put into place, and the way the amendment is drafted is if a sales tax produces, the sales and income tax, if those two taxes together – let us say they grow at a rate of 5 percent, and the inflationary index as computed by the CPI-U (Consumer Price Index for All Urban Consumers) – again, that is defined in the legislation, something we use in numerous other legislation – if the CPI-U is 2.5 and the increase in the sales tax and the income tax is at 5 percent, the legislation calls for the lower of the two to be utilized. So in the instance I just described, the 2.5 percent would be the growth that would be allowed, and that additional amount, on top of the base year, that additional amount will be driven out to school districts to ensure that they are allowed to grow again at the rate of inflation.

Now, the legislation says it is the lower of the two, so if the reverse were true and the CPI-U were 5 percent somehow and the taxes only grew at 2.5 percent, it would still be 2.5 but it would be because the sales and income tax only grew at that level.

Mr. EVANKOVICH. Thank you.

Mr. Speaker, given that the formula will drive out funding to school districts based on what they are getting today and then on an inflationary index moving forward, we have, since Act 120 of 2010, the State has created a pension spike that I believe starts in 2016 and starts to level off in 2022. Under that legislation, school districts would be required to increase their employer contribution by upwards of 35 percent, I believe, 33, 35 percent. If your amendment would become law, how would school districts raise the necessary revenue to cover the pension spike that they are now required under law to pay for?

Mr. COX. I think the simple answer to that is this legislation is not designed to address the underlying basic education funding formula that is problematic. It is not designed to

address the pension spike. There are numerous other pieces of legislation out there that focus on both of those issues and other issues that need to be addressed. There are cost drivers that my legislation, that this amendment, cannot address.

The role of this bill – or this amendment as it is contained here today is a simple replacement. It is the question as I mentioned in my opening remarks of, do you want to replace school property taxes with sales and income tax? If you want to address the pension problem, there are numerous members who have legislation that can focus on that. I absolutely believe we need to approach the pension problem and we need to resolve it.

You said in your remarks that it is a State-created problem. I agree. We messed it up. It was before my time and your time, before we were elected, but we messed it up here in the legislature and we need to fix it, rather than passing that back to the school districts. There is no provision in here to attack the pension problem, the funding formula problem. We have a dollar-for-dollar replacement. We are keeping it simple. That debate on those other issues is for another day, it is for other legislation.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

While I could not agree more with you that we need to address the pension problems in our State, at this point, under existing law, we have developed a construct where local school districts provide funding and make decisions, and part of that funding right now is the fact that pensions were underfunded and they have been obligated to pay that money regardless of what changes we make here. My question still remains, under your legislation, how would school districts pay for their pension obligations if this were enacted?

Mr. COX. Well, if we as a legislature are completely irresponsible, as we sometimes are, if we are completely irresponsible and we choose to pass that back to the school districts and say, you alone are responsible for fixing this, if we do not rein things in, if we do not make changes, then school districts will be faced with quite a problem. In the same way that if we do not address the underlying basic education funding formula, school districts are going to continue to see that it is harder and harder for them to create an environment where students can learn.

The design of this amendment contains cost controls; cost controls that for the first time in history as touched on from my colleague from Allegheny County, cost controls that finally put some limits and put an end to the spending – the credit card spending, the seemingly limitless credit card spending that some of our school districts are currently doing. And so those cost controls are my way and the supporters of this amendment, it is our way of saying, enough is enough, we are going to limit what school districts are doing, but at the same time, I believe it is our responsibility as a legislature to go after that funding formula and make sure it is fair, to go after those pension problems and take responsibility for how it was messed up by this legislature in 2001 and the following years.

Mr. EVANKOVICH. Thanks, Mr. Speaker.

And you and I could not agree more that we need cost containment at all levels of government, but can you try to tell me specifically what options would school districts have to cover the pension spike that they will face between 2016 and 2022? Right now the State pays half, the local districts pay half. The State will have a very similar pension increase in their pension liability in the same time period. What will the options be for the local school districts to cover those pension costs?

Mr. COX. Well, under existing law – and I will give two scenarios here. Under existing law, what school districts are going to have to do is look at one of their local revenue sources, and that includes the earned income tax, business privilege taxes that some school districts have in place, earned income taxes, net profit taxes, all variations of local taxes. Right now they have the ability to increase all of those.

If this amendment goes into place, we are not removing any of those other local taxes, so a school district could still utilize whatever we have currently authorized for local tax changes, and if they needed a local effort, they would rely on the other sources, which would not obviously include the school property tax since we are eliminating it.

So we also, in this amendment— This amendment provides if a school district so desired, they could actually put that in front of their taxpayers and they could say to their taxpayers, we have this concern, this problem, with funding the pension increase, which some will say was created by the legislature, others will say it was created by the local school district with their salary levels and so forth. But regardless of where you stand on that, school districts will have the ability to go to their taxpayers and say, we are looking at a pension shortfall, and because of that, we want you to pay an earned income tax or a personal income tax at the following rate for the following period of time in order to cover that pension shortfall. And so they will be able to go to the taxpayers to cover that. If the taxpayers say no, the taxpayers word has to stand, you know, their decision has to stand and they will then have to rely on one of those other taxes that are in place.

Again, the vast majority of those, or quite a few of those fall on the earned income tax as it exists under other provisions of law or the nuisance taxes, as some people call, under Act 511 and the Public School Code.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

Mr. Speaker, if I can understand your response, school districts will have to raise earned income taxes and personal income taxes to cover the pension increase that is coming down the line.

Now, if I can just ask one last question. Given a school district that under HB 76 is drafted in amendment 3448, some school districts will be paying more increased sales and income tax than they currently do in property taxes for their local school district. So for the school district, we will say as an example, a school district in Westmoreland County that is going to be paying more in income tax and sales tax, and they are going to be sending the difference to the State to cover education funding in other areas of the Commonwealth, you are then going to turn around to those same taxpayers and tell them that their local school district has to raise more income taxes to cover the pension shortfall that they are going to see, that is known that they are going to see it between 2016 and 2022. You are going to say, you are already paying more in sales and income taxes. You are sending it to the State to subsidize other school districts, but we are going to ask the local school district to raise taxes even more to cover that pension spike at the local level. Is my understanding correct?

Mr. COX. We are not requiring them to do it, but you are working from the premise that the legislature is going to be completely irresponsible and not tackle the pension issue. I, for one, am going to advocate for tackling the pension issue in a meaningful way so that we do not burden our school districts at that level. I think it is patently unfair for us to have created a

scenario and exacerbated a scenario of irresponsibility. If they have been irresponsible, we have let them do it, and so those districts that are being irresponsible with your property tax levels, this amendment is an attempt to rein that in.

We need to do the same types of things to say to school districts, we see that we made some mistakes here and we as a legislature are going to take up some of that slack. I do not think— You are working from the premise that we will do nothing, and I think that is a flawed premise, and so it is a difficult question to answer. You are making the assumption that we are not going to do anything. I, for one, think that is completely irresponsible, and shame on us if we let that fall directly on just the school districts.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

That concludes my interrogation. Can I speak on the bill, please – on the amendment?

The SPEAKER pro tempore. The gentleman will be in order, but the Chair wishes to remind members, this is merely the first amendment of the first bill of many that remain on tonight's calendars, and those who are interested in concluding before the ninth inning, just please be considerate and crisp.

The gentleman is in order on the amendment.

Mr. EVANKOVICH. Thank you, Mr. Speaker.

Mr. Speaker, it causes great concern with me, this amendment would require local school districts to raise taxes above and beyond the taxes that are going to be increased on them as a result of this amendment. You know, the maker of the amendment alluded to the fact that if we are irresponsible in this building and do nothing, then shame on us for not fixing the pension problem. I would just simply say that none of the reforms that have been put forward will actually mitigate the local tax impact.

Mr. Speaker, just one last point on the bill. We already have a problem with school districts and how they spend money, because there is a disconnect between the taxpayers that elect them – the taxpayers and the policymakers. When taxpayers are funding school districts out of Harrisburg, it creates the problem that we have right now. If we listen to the folks who say that school districts are already underfunded from the State level, I would submit that that is partially because we, the policymakers, are far removed from the people paying the taxes, and amendment 3448 just further exacerbates that problem.

I would ask for a "no" vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Cambria County, Representative Barbin.

Mr. BARBIN. Thank you, Mr. Speaker.

I am constrained to oppose this amendment for the following three reasons: Number one, this amendment does not do what its stated purpose requires; number two, it makes the situation for public schools worse; and number three, it makes it worse by taking our most regressive taxes, personal income tax and sales tax, which fall heaviest upon the people that are having the hardest time in this current recession, and it says we are going to replace these other taxes, which is with taxes that are going to fall more harshly on average working Pennsylvanians.

So for those reasons, I cannot agree to the bill. To be fair here, I have to commend the speaker or the maker of the amendment that this is his only opportunity because his bill will not be taken up in committee to be fixed. So all he can do under our rules is put the amendment up. Yes, everybody would like

to fix the property tax problem, but he forgot who it is that has the problem. The person who has the problem is the veteran of World War II that is sitting out on the steps of the Capitol. He does not have income to pay the real estate tax bill. There is a way under our Constitution to help him, but he is not using it. We cannot amend the bill to fix it, but here is how you fix it. Article VIII, section 2, says, subsection (b), the legislature may establish a class of subjects of taxation on property of persons who because of age, disability, infirmity, or poverty are determined to be in special need of an exemption. His problem is, he wants to give an exemption to the million-dollar apartment owner. The guy who needs the relief is the veteran in the wheelchair. Our law lets us do that.

If he had done just that, if he took the people that were losing their houses at foreclosure sales and said we are going to give an exemption to the 80-year-old people that only make \$15,000, the Constitution would allow it. We would have to make up \$100 million from the General Assembly and send that back to the school districts, but we do that all the time. Every day we do that because that is how the PURTA (Public Utility Realty Tax Act) tax works. The public utility real estate tax works exactly that way. You have to pay the municipality for the amount that the public utilities are not paying.

There is a way to do this. He is not doing it. What he is doing instead is to say we are going to make another billion-dollar giveaway. We are going to give away real estate taxes when we do not have enough money for public schools now anyway. It is going to make the situation worse. And he is doing it by saying we are going to increase the personal income tax. There is no reason in the world to help that veteran that we have to raise the personal income tax. All we have to do is close one or two loopholes. We have 71 exemptions in Pennsylvania from our sales tax. We could take any neighboring State's sales tax law, get rid of Pennsylvania's, impose Virginia's, we would collect more sales tax, and we would be able to give the money to the veteran who needs it. This bill does not do it. I oppose the bill.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Schuylkill County, Representative Knowles.

Mr. KNOWLES. Thank you very much, Mr. Speaker.

Mr. Speaker, I stand in strong support of the Cox amendment for a very good reason, for a very good reason, and that reason is that is what the people that I represent want. That is one of the main reasons why they sent me to Harrisburg. As I reach out to my constituents, whether it be at a telephone town hall meeting, whether it be a breakfast with your legislator, a dessert with your legislator, or simply going into a grocery store, I try to engage them in conversation. I try to get them to talk about transportation. I try to get their feelings on how they feel about pension reform. I want to hear what they have to say about privatization of the Liquor Control Board. But you know what? It always comes back to property tax elimination. They want the elimination of the school property tax.

As some of you may know, I was a county commissioner, and I can remember back in the nineties, I can remember the secretary coming into my office saying, there is a woman outside that would like to speak to you. I told her to bring the lady in. She was an older woman. She sat down at the desk and she pulled out her property tax bill. She was literally in tears. She was in tears because her husband had passed away, her income was reduced, and she was going to lose her house. She

wanted me to do whatever I could do to help her, and quite honestly, there was nothing that I could do to help her, but there is something that I can do to help her now, and that is to strongly support what in essence is HB 76.

Mr. Speaker, my constituents will not be satisfied with reduction. They want total elimination. They have made that loud and clear to me. They want to get rid of it so that it can never come back. And you know what, they realize that their income tax is going to go, or their sales tax is going to go up and that the base may be expanded. They realize that the PIT, the personal income tax, is going to be increased. But you know what, they can deal with that throughout the year. They can deal with that throughout the year. And they do not have to deal with that large bill that they get. And large to some of the people where I live is \$8,000 and \$9,000, and large to many of the people that I represent may be \$800 or may be \$1,000. Well, Mr. Speaker, the time has come. Let us put up or shut up. We have got 91 cosponsors on this bill. We have got 91 cosponsors. And today what we are going to do is we are going to sort out the phonies. We are going to sort out the phonies.

Mr. Speaker, in closing, I ask you, all of you, to take a close look at this bill and to realize that it is something that the people of Pennsylvania want.

I ask you for a positive vote on this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Clinton County, the Democratic whip, Representative Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to amendment 3448. Like most of us here today, I support eliminating or reducing property taxes, and the underlying bill titled the "Optional Property Tax Elimination Act" will have my support and is a responsible way to address this issue. But amendment 3448 is irresponsible. It is irresponsible to vote "yes" for an amendment that the prime sponsor admits – and I am using his words – the prime sponsor admits is flawed, an amendment that the gentlelady from Luzerne pointed out is internally inconsistent and improperly drafted.

Mr. Speaker, it is irresponsible to vote for an amendment that the Independent Fiscal Office says will create an annual deficit of \$1 billion by year 3, an annual deficit of \$1 billion by year 3. Mr. Speaker, this amendment would give the State 100 percent of the responsibility for funding public schools. Governor Corbett's massive \$1 billion cut in State funding to our public schools was really nothing more than one big tax shift causing hundreds of school districts across Pennsylvania to increase property taxes on homeowners. A "yes" vote for this amendment is a vote to make the Governor's cuts to basic education permanent. A "yes" vote on this amendment is a vote to make the Governor's cuts to basic education permanent.

If the aim of this amendment and this bill is to give homeowners relief from property taxes, let us start by properly funding our public schools at the State level. Anyone who really cares about the burden of property taxes on our homeowners would work with us to develop a fair, more equitable funding formula for our public schools that starts with the House Democrats' proposal to restore \$1 billion to basic education over the next 3 years. Let us end the charade that these proposals would eliminate property taxes when we all know they will not.

Let us instead focus on the real problem of how we fund our public schools. Let us work together to develop a fairer school funding formula that will benefit our taxpayers and our children. These proposals seek to treat the symptom of rising property taxes without acknowledging an unfair and inequitable school funding formula. It is time we focus on what is causing property taxes to keep rising, and that is the fact that this Governor has shortchanged our public schools and shifted the burden to homeowners.

Again, Mr. Speaker, it would be irresponsible to vote for an amendment that the prime sponsor describes as flawed. It would be irresponsible to vote for an amendment that the Independent Fiscal Office says will create an annual deficit of \$1 billion by year 3. Mr. Speaker, it would be unconscionable to create another \$1 billion basic education deficit with this amendment on top of the billion-dollar cut the majority and the Corbett administration have already voted to enact.

Mr. Speaker, I call for a "no" vote on amendment A3448. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Berks County, Representative Maloney.

Mr. MALONEY. Thank you, Mr. Speaker.

I do not run to the microphone, and I will keep this as brief as possible. We heard a lot today already. Several members have already mentioned some of the points that I think I would just like to summarize. We have heard about past mistakes, the funding formula, and whose responsibility is it. Well, most people here know that property taxes are the number one issue in my district, and I would like to stay focused on property. This is the biggest and most mentioned topic in this body since I have come here. We have heard 1971, property tax rent rebate was created; '97, homestead exclusion; '98, Act 50; 2001, Act 24; 2004, Act 72; 2006, Act 1.

I guess the question tonight really is, is it working? The Constitution was mentioned earlier, and if you think about property, I would like to revisit that. "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth." It does not say homeowners shall do this.

I have, like many of you, been bombarded with the past decisions that have been made here in the district, not only after election but even prior to it. I have had constituents whose homes that I have stopped at ask me to come in. One couple showed me they had 3 to 4 years left with their budget as they saw it to stay in their home. A woman called me to her house just last year. It was a home that she bought and paid cash for after her husband died and she sold her first house. She bought a house in my district, paid cash for it, became ill, and because of the rising property taxes, is unable to pay the bill. I was not sure what all she was referring to because she was not clear at the time. She was pretty upset. And I went there, and what I found was a sheriff posting on her front door. That was for her property taxes only.

An elderly woman came in my office unannounced. She sat right in front of me at my desk. She pulled her property tax bill out of her pocketbook, and she said, "I can no longer afford to pay this. Can you help me?"

The Secretary of Aging visited a senior center in my district, a model senior center, I might add, and after he gave us an update, it was time for questions and answers. The only

questions that were asked him were about their property taxes.

I recently was invited to an event in Berks County hosted by the realtors. The Secretary of State came, keynote speaker, did a great job. Time for questions and answers. The only questions there were, were about property taxes.

You know, when the Constitution was mentioned, I have to go back to a part that troubles me in Article I, where it says "All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness."

I have questioned this for quite some time. It has bothered me. I have been questioned even as a former school director. And I understand the challenges we have; believe me, I do. When we talk about someone's property, I am truly bothered. We honor our veterans, and rightly so, heroes. On the House floor, I thank you all for the support that you gave when we honored a local veteran who since passed away, Dominic Martorana. He served our country well as many of you have and your relatives. Those men and women served our country, defended our Constitution for what it says and what it means.

Now I ask you to be a hero for homeowners. Vote "yes" on amendment 3448. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentlelady from Philadelphia, Representative Parker.

Mrs. PARKER. Thank you, Mr. Speaker.

I rise to make some comments regarding amendment 03448. Let me just first start by saying that I agree with the sponsor in his decision to remind us of the importance of our responsibility in this Commonwealth's Constitution, a responsibility to provide a thorough and efficient public education for our children, and that should take place regardless of their respective ZIP Codes, and so I do agree with the sponsor in those comments.

In addition to that, Mr. Speaker, during his remarks or summary of the amendment, he referenced that Pennsylvania, in comparison to other States, ranked extremely low in terms of our statewide contribution to education, and I want to note that I also agree with the sponsor there. Pennsylvania is amongst the lowest 20 percent of the States in our nation and our contribution from State sources to public education. The only thing I would add is that according to the National Center for Education Statistics, that Pennsylvania ranks fourth out of the 50 States in our dependence on local taxes to fund public education.

Now, purely from a fiscal perspective, let me just note that this amendment does not make dollars and/or good fiscal sense for the School District of Philadelphia. Very quickly, Mr. Speaker, let me just take us back to the previous fiscal year when the School District of Philadelphia had to borrow \$300 million just to keep the doors open. In addition to that, Mr. Speaker, this year— And we all know it. It was highly publicized. It was well documented. You all know it was not a doom-and-gloom sort of message. You know the numbers were fact-checked by all parties, and it was documented that Philadelphia had a \$304 million structural deficit facing the district.

The basic ed funding formula that we just worked through, Mr. Speaker, during our budget process allowed for the allocation of \$15.2 million for the city of Philadelphia, for the

School District of Philadelphia, and I just referenced a \$304 million structural deficit with a \$15.2 million allocation from the formula regarding statewide funding.

So in the midst of that, we have been forced over the past few years to generate more revenue locally for public education, and you all know what the items were. Our local council has increased U&O (use and occupancy tax). Years ago, you know, we did liquor by the drink. This past year we saw an increase in the sales tax. And over and over, Mr. Speaker, we find ourselves having to depend more on local revenue to fund public education because the State via its funding formula is not equitable and it is not fair. I am being diplomatic here today. It is just not equitable and fair.

So let me just note that via HB 76, which is the same as amendment 03448, the technical and policy issues paper that was released, I want you to know these are not our numbers. These numbers reflect that the city of Philadelphia would be affected by the loss of approximately \$200 million in revenues from the elimination of the local use and occupancy tax, the local unearned income tax, and local liquor taxes. A loss of \$200 million when we are dealing with a \$304 million structural deficit that has not been addressed.

In addition to that, it was referenced earlier by one of the speakers that this draft report from the IFO will be up on their Web site running, I believe, tomorrow, but it noted that in the '14-'15 year, Philadelphia would lose not the 200 in the initial report that came from the technical and policy issues group, it said \$278 million. And then in the '18-'19 fiscal year, the IFO notes that Philadelphia would lose \$306 million if in fact amendment A03448 were to become law in the Commonwealth.

I want you to know, Mr. Speaker, that I will work with the sponsor of this amendment. I will work with all of my colleagues, anyone, I do not care what corner of the Commonwealth you come from. I do not care what label is used to describe you and your politics. I am not extending an olive branch. I think I am attempting to extend the whole tree. If the goal is to really work on fairly and equitably funding public education in the Commonwealth and this was an attempt, I at least commend the gentleman for attempting to work through a process and to come up with a product that even if I do not agree with it, he has attempted to put something on the table. But I would hope that we would also be able to come together to deal with the underlying cause about why amendment 3448 is necessary, and that is because the Commonwealth is not fairly and/or equitably distributing funds as it relates to public education across the board in funding. That is why when we here in the Commonwealth have not funded public education, this is why city council in Philadelphia has had to find a way to hodgepodge, put together a package, and say let us try to increase the U&O, let us try to increase the liquor by the drink, any tax that they have control over locally in desperation, Mr. Speaker, to fund public education.

So whatever we would have to do to work together, I extend again not the branch but the entire olive tree to my colleagues on both sides of the aisle who are committed to working on doing their best to come up with an equitable and fair funding formula that will allow us to meet our constitutional requirements to funding public education in this Commonwealth.

I want to state for the record so that you know that we are not speaking from emotion here. For those of you who have had the great honor of working with us on issues associated with the

School District of Philadelphia during the budget process, you know we believe that the facts are extremely important. And I want to note that during the last tax year, the city of Philadelphia collected approximately \$1.047 billion in property taxes in the last tax year. That was \$458 million for the city's general fund and \$589 million for the School District of Philadelphia. If you eliminate our ability to use what we do have the power to do now as it relates to funding public education from the local level in the city of Philadelphia with the taxes that I just described, and then you want us to agree to implement what many believe are regressive taxes, but that is subject to what your opinion and/or belief is, but without being able to tell us that this is going to be revenue-neutral and we will be able to plug in the same amount of revenue that was generated via the school district portion of the property taxes.

Mr. Speaker, I would hope that my colleagues from all of the respective counties throughout the Commonwealth of Pennsylvania would simply ask themselves one question as it relates to amendment A03448, and that is, does it make dollars and does it make good fiscal sense for the residents, your constituents of the 67 counties here in the Commonwealth of Pennsylvania? Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

On the question of the amendment, the Chair recognizes the gentleman from Berks County, Representative Gillen. Please proceed.

Mr. GILLEN. Thank you, Mr. Speaker.

I just received a text message a few moments ago, and it was my wife, and she wants to know how soon I am going to be home, so I promise you I will be brief. A point of personal privilege. Hello, honey.

And further, if I could mention something that I found highly unusual as I was reading the newspaper the other day relative to the issue of property taxes in Berks County. It is extraordinarily rare to have Republicans and Democrats coupled in one letter to the editor in complimentary terms, but this particular letter writer accoladed every Republican as well as every Democrat, as I look across this room, for their position on keeping seniors in their homes, the ability to stabilize neighborhoods, and as my colleague from Berks County so eloquently stated, to keep children in their homes. This debate, after all, is about education and the child who is not forced into a transient situation moving from rental unit to rental housing, a child who is not forced into that situation is anchored in the community, fully realizing the support system of the American dream, benefiting from continuity in teachers and administration and school.

I did graduate work at Kutztown University. I am an Act 48-certified teacher myself. My wife has a master's degree in elementary education. I do not think anyone would question our pedigree and our passion about an adequate education, but let me say this: I was in a research class at Kutztown University, Mr. Speaker, and the issue came up of some of the greatest struggles that our educators face in teaching, and I will never forget what one educator said to me. He said, Mark, we start the school year with 25 students and we end the school year with about 25 students, but the problem is, half the faces have changed in that classroom. And so we are talking about efficacious use of State dollars in education. I maintain to you that stability in our communities and stability in our neighborhoods and stability in the classroom is anchored in home ownership, and one of the greatest barriers to that home

ownership in the area that I call home is the barrier of the property tax. It does not have to be my way or the highway, but I want to tell you this: The senior citizens, family members, children in our community are not merely looking for another tinkering with the system, a little nipping around the edges. They are looking for the elimination of their school-based property tax, and I believe amendment 3448 is a pathway to get us where we need to go.

If you are serious about education, if you are serious about continuity in the classroom, if you are serious about the children gaining all the benefits of that classroom, then you have to be equally serious about removing the barriers to that child being in that same home for 10, 12, or 15 years.

We have a community, a municipality where 57 percent is rental housing stock, and I do not assume that all of the reason for that is the property tax, but I am confident that some of it has to do with the property tax. We have constituents all over the Commonwealth of Pennsylvania, whether it is the good lady from Bucks County that had 350 constituents come out to a town hall meeting, and the echo and the cry that left that place is they wanted a change in the property tax system. It does not matter whether it is Democrat, Republican, Allegheny County, Philadelphia, Monroe County, or the county that I call home, Berks County. With one accord, they are demanding change in this oppressive system.

My mother lives in Philadelphia. She is 87 years old. The actual value initiative hit her community, hit her neighborhood. What could be more unconscionable than removing senior citizens from their homes? My dad was a World War II veteran. He was in the machine gun turret of a torpedo plane. He stepped out into eternity. He is not the issue. My mother is the issue, and your mother is the issue, and our grandparents are the issue. What could be more unconscionable than men and women working their entire lives to realize the American dream, men and women who fought to keep us free so that we could maintain the seats that we have in this room, what would be more unconscionable, through no fault of their own, than an oppressive property tax ripping them out of the place that they call home?

I carry this letter with me, "Our taxes are causing us to sell our home since I (we) only have enough for 1 more year in the home we raised our 5 children...our grandchildren..." and we celebrated all of our holidays there, Christmas and birthdays. That was 1 year ago, and these people have been removed from their home because of an inability to pay a tax that they ought not to have been responsible for. Move to an alternative, move to a consumptive-based tax, move to personal earned income tax. The property tax is destroying the American dream.

Mr. Speaker, when you improve your property and you raise your situation in life and you create a little bit more space, you have a visit from the assessor's office to punish your entrepreneurial spirit, to punish the investment that you have made in your property. Not only does this property tax need to go, this system of assessment and reassessment has got to go with it. What do they do in Berks County? I am sure it is very similar to what goes on in your own communities. They do aerial surveillance to detect differences from one period of time to the next, and if there is a difference detected by virtue of aerial photography, we checked, the Berks County Assessment Office, how many of the assessors are using the aerial surveillance technology? It is not black helicopter stuff. All

19 of the assessors in the office are using aerial surveillance technology.

Friends, you have a choice to make today. You can have freedom or you can have the property tax, but you cannot have both. You will either stand on the side of the Constitution and allow people to be secure in their own homes or you will allow them to be subject to unreasonable seizure. There is no middle ground. There is no room for halfway measures. This amendment, 3448, embodies what our families are looking for, embodies what our seniors are looking for, and embodies what our veterans are looking for in legislation. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Philadelphia, Representative Harris.

Mr. J. HARRIS. Thank you, Mr. Speaker.

Mr. Speaker, I am well aware of the property tax issue in the Commonwealth. My residents in my district of Philadelphia are experiencing a raise in their property tax because of a current shift in the way Philadelphia assesses the value of their homes. In many instances in my district, people will see their property tax go up by 100 percent if not more. I have seniors who come to my office and they seek respite from the current property tax situation. And yet while all of these problems may be occurring, Mr. Speaker, I submit that this amendment is not the solution. And frankly, I will not use their stories as scapegoating to get this amendment passed.

Under this amendment, Philadelphia would lose more than \$200 million for public education. Some accounts put the number at more than a quarter of a billion dollars for the city of Philadelphia. Even more devastating, under this amendment, Mr. Speaker, is that the city of Philadelphia would be forced to solely rely on the Commonwealth of Pennsylvania and would not be able to raise funds for the School District of Philadelphia on their own.

Mr. Speaker, while the Constitution does place the responsibility of funding education squarely on the shoulders of the State, I must submit that currently we have not stood up to the challenge. Mr. Speaker, we lack a funding formula that looks at the needs of students and districts first, and without a sensible funding formula that puts students first, how can anyone in this chamber vote to place the sole responsibility of funding our schools in the hands of this chamber and in the hands of this General Assembly? We have not stood up to the challenge, and yet we want to tie the hands of Philadelphians and Philadelphia's local government from raising the additional funds that have been needed to keep the School District of Philadelphia afloat.

Additionally, this amendment will place an even greater burden on those who do not own property tax, those who do not own properties, those being a renter. Understand what this amendment will do. If you rent, you will see an increase in sales tax, you will see an increase in your income tax, but you will not get the benefit of relief from property taxes. Let me say that again, Mr. Speaker. For the young people in our Commonwealth who graduate from high school, graduate from trade and technical schools, who graduate from college and go on to start a life here in the Commonwealth, they will see an increase in the sales tax, they will see an increase in their income tax, but if they are renters, they will not see a decrease

in property tax. So this amendment is picking clearly winners and losers, and we should not be in the business of doing that.

Finally, Mr. Speaker, if you are fortunate to be a wealthy Pennsylvanian and you live off of your investments and you do not pay income tax, Mr. Speaker, you, my friend, would be a winner, but all of the other Pennsylvanians, many of my constituents who send their children to inadequate schools, they, Mr. Speaker, would be losers. It is not the job of the Commonwealth to pick winners and losers.

I commend the maker of this amendment for wanting to address the issue of property tax, and I look forward to working with him in the future, but I am sorry, Mr. Speaker, I cannot vote for this amendment because what it will do to the Philadelphia School District is devastating. What it would do to the future of our Commonwealth, to our young people, is devastating. And quite frankly, Mr. Speaker, I do not think anybody should vote for an amendment that will snatch the futures from our young people. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from Bucks County, Representative Petri.

Mr. PETRI. Thank you, Mr. Speaker.

I will be brief and direct. You know, we have identified the problem over and over again. In fact, we have built what I call false expectations in folks. Look, this is a \$12 billion issue, and make no mistake, the amendment is a tax shift, unless, of course, you want to totally defund education. So let us identify some of the places where the revenue comes from so there is a clear understanding. We certainly know that accounting services and legal services and the like would be taxed, real estate commissions, but nobody really cares about that. But do you care that your food, clothing would be taxed? How about a clergy honorarium? You are doing a funeral or wedding, that is taxable. Movie tickets. Little League tickets. We are going to tax Little League games now. Basic TV, museums, zoos, nursing homes. You go into a nursing home, I assume those services will be taxed. ATM (automatic teller machine) fees, so that when you take out your own money or you move money within your own account, those will all be taxed. Funeral services. Any personal care item, gee, you go to a dry cleaner, hairdresser. You want to get your nails done, ladies, you want to go to the spa, whatever, it is all subject to tax.

Do not forget the 1-percent PIT. Yeah, there is about \$12 billion worth of those new taxes that you are not used to, and you know what, Mr. Speaker? It still does not work. Admittedly, you heard today, admittedly, this amendment is not ready. There are problems. There are significant problems. You know, I was on the Finance Committee when I first came here and I participated in the hearings, and 10 years later we are still trying to get this bill ready. Perhaps it will never work, but that does not mean we do not have solutions that are pending, the ones we will consider perhaps today and others. What is wrong with a shift of some of that gaming money that we all get and leave it just for seniors and enhance or create a property tax freeze? Those concepts are in bill and in form.

You know, irresponsibility is, by definition, doing something that you know will not work and is wrong or is not ready and voting for it. Quite frankly, I think we have to be careful of creating false expectations by telling people that this is a property tax, school property tax elimination. We know it is not. You are still going to owe the money for the debt service, and

some schools are out 29, 30 years. So in most school districts you are going to have 20 to 30 years of school property taxes to pay anyway, and that does not even include the unfunded liability for the pensions, particularly retirees, remembering that 50 percent of our \$40 billion unfunded liability is tied up in retirees that we cannot do anything about.

So unfortunately, I do not think it is responsible to vote for this measure. I was not one of the people that ever cosponsored it because it was never shown to work, and that is a tough thing to do. You know, people want us to vote for it, they want us to pass it, but all we are going to do is create a false expectation that there will not be any more school property taxes, and we all know, every one of us knows that is not true.

So unfortunately, I think that this measure, in a responsible sense, has to either be passed over or defeated today. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentlelady from Montgomery County on the question, Representative Dean.

Mrs. DEAN. Thank you, Mr. Speaker.

I rise in opposition to amendment 03448 to HB 1189 because I know we must look at the whole picture: the purpose of property taxes, the problem with property taxes, and the solution that really addresses both. What I found is that in this amendment it addresses the problem. Property taxes stink, in large measure, because we rely too much on property tax and not enough on State support for our schools. In fact, PA ranks in the lowest 20 percent of States in its share of school funding.

This amendment, however, fails to focus on purpose, and it does not seem to care about a solution that makes mathematical sense. As we all know, the purpose of the school portion of our property taxes is to contribute to the support of public schools. Our children are entitled, it has been said over and over again today, constitutionally entitled to a thorough and efficient public school education. It is our State obligation.

The problem is that the burden of property taxes is often too great, partly because of the State's inadequacy of funding, and bigger, it is a problem for our seniors. I think everybody in this hall recognizes the problem, the burden is on seniors, so we should focus on that problem.

In just the last several weeks, I met with an elderly constituent, a homeowner of more than 40 years, who was faced with a difficult decision: lose his home due to \$6,000 in tax liens, search for a reverse mortgage, or sell and move; an impossible choice.

The solution in my mind, and according to many experts, is that any property tax reform must pass four tests. I have decided to call them the DARE test. Any reform legislation must be combined revenues that are diverse, adequate, reliable, and equitable, DARE. Diverse, from multiple sources, not overly reliant on any one or two taxes. Adequate, the new taxes must adequately replace the funds that currently support our schools today and into the future. Reliable, the revenues must be relatively constant and predictable. Equitable, as fair to all citizens and taxpayers as possible.

This amendment, in short, fails the DARE test. It reduces diversity of revenue streams. It fails to be adequate as acknowledged by the maker.

Mr. Speaker, could I have a little—

The SPEAKER pro tempore. The Chair would like to remind the members, although it does not seem any louder now than it has all afternoon, that the gentlelady is entitled to be heard.

Mrs. DEAN. Thank you, Mr. Speaker.

It reduces diversity of revenue streams. That is a serious problem. It fails to be adequate, as acknowledged by the maker. According to the IFO report, over the next 5 years, this amendment and HB 76 produces a \$1 billion shortfall to our schools. We cannot suffer another billion-dollar shortfall. And the overreliance on sales and use and personal income taxes means that revenues will not be reliable in funding our schools in both good and bad economic times.

Additionally, the legislation does not lead to equity or something that is fair. Renters will be hurt, senior renters even more so. Businesses get an unintended windfall, no longer having to contribute by paying school property taxes on commercial properties, while businesses enjoy business-to-business exemptions. Workers will be hurt with a 41-percent increase in personal income tax and a 1-percent increase on sales tax or a 7-percent on some things. Just think of those people in Pittsburgh and Philadelphia absorbing another 1-percent sales tax.

Mr. Speaker, I respectfully dare us to do the right thing and not pass a sound-bite fix that is no fix at all. Mr. Speaker, I urge us to be serious about real property tax reform; find solutions that are diverse, adequate, reliable, equitable. We owe it to our children. We owe it to our seniors. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

On the question of the amendment, the Chair recognizes the gentleman from Monroe County, Representative Scavello.

Mr. SCAVELLO. Thank you, Mr. Speaker.

First I want to correct the record. I have heard it a couple of times said that Governor Corbett has underfunded public education, and that is not correct because the last 3 years there has been more money, State moneys into public education than ever in the history of the Commonwealth, and if not so, just show me the numbers because that is accurate.

You know, I am having a flashback because I stood at this microphone about 6 1/2 years ago when we passed the last property tax bill out of this House. We got 108 votes. It was the Scavello-Benninghoff plan. It was raising the sales tax by half a percent, taxing some other items, and raising the personal income tax .22. That bill left the House with approximately 108 votes because folks wanted total elimination so they did not vote for it. It went over to the Senate, and of course, the Senate did not take the bill up.

So here we are today. But before that, we lost a House in 2007, and the majority, the new majority leader at the time stood up and said, I am saving HB 1 for school property tax reform. It is about time. Go back and check '07-'08. HB 1 was saved, but no property tax bill was ever introduced, not that year, and no bill was ever voted on for those 4 years.

Some folks said that it is a shift. You are right. If you reduce the tax, the three main taxes, it is a personal income tax of some sort, either EIT or PIT, sales tax, and school property tax, property taxes. If you lower one, you are going to have to raise one or two of the others. There is no brainchild here. You are going to have to find the revenue elsewhere.

You heard also the stories about folks that are really hurting out there, and I have sympathy for Philadelphia, I really do, but I want Philadelphia to have sympathy for the growing areas of the Commonwealth. Back in 1991 they passed that hold-harmless legislation that froze a moment in time the 1990 census. So I just want all of you to look at Philly and the

population they had in 1990, and they have been funded off of that census till today.

We, however, in the growing districts where we have spent— I will give you one example. I heard some numbers. I have one school district at \$270 million in debt because a building construction that they had to build because of the growth in those areas. Monroe County, I was just talking to a realtor just recently, just closed on a house and the mortgage is \$380 per month. Do you know what the taxes are on that property? Eight hundred and twenty dollars a month. Just think about that, Mr. Speaker. That is what happens when we pass laws in this legislature and do not take the opportunity to try to change and correct them, especially for the ones that are doing well.

Mr. Speaker, can I have a little bit of quiet here because I want folks to hear me?

The SPEAKER pro tempore. The gentleman, just as his predecessor, I would observe the sound level is pretty consistent all afternoon, but he is entitled to be heard. You may proceed.

Mr. SCAVELLO. We have a tremendous amount of folks in the growing areas of the Commonwealth losing their homes, literally crying. I can show you hundreds and hundreds of e-mails, losing their homes because this legislature has not tried to address school property tax reform. This is the first time since that day that I stood at this podium that we passed that bill that we are even taking up the issue, and I commend the leaders for doing that.

I have heard also the problems with this amendment. And then while I was hearing the problems with the amendment, I was watching the amendments that have been filed to this bill to see hopefully, because if some of these folks really wanted to correct the problem, they would have filed an amendment to correct the bill. They all seem to want to help. So if they saw that there were a couple of problems with the bill, I thought maybe I would see an amendment that would correct this. But guess what? There are amendments, all kinds of amendments here, but there is nothing here that is really going to help this amendment.

I am hopeful that we address this issue, and if it is not in this amendment, which I am going to support, I am hopeful that we will do it for everyone, for Philly, for Monroe, for Northampton, for every county in this Commonwealth. When you buy a house, you never plan on leaving it. You want to stay in that home forever. That is your piece of your rock. But when you lose that house to property tax or you have to give up the house because you cannot afford the property taxes, let me tell you, it is not a good feeling.

I heard some comments earlier that we are really hurting the young. You are not really hurting the young if you pass a bill that pretty much eliminates or is pretty close to eliminating property taxes, because guess what? It is going to make homes more affordable. Homes will be more affordable. When you go look at the pricing on a home, that property tax will scare the bank away from giving you a mortgage because of your income, but that homeowner, that renter, that renter will get an opportunity to buy a house, maybe a little bit sooner.

You know, I owe it to my constituents; I said that I would support any bill that would reduce or eliminate school property taxes, and I am going to continue to do that. I am hopeful in asking the members for an affirmative vote on amendment 03448. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Berks County, Representative Rozzi.

Mr. ROZZI. Thank you, Mr. Speaker.

I rise in support of my honorable colleague from Berks County and his amendment, A03448. I will be voting to free my constituents from this archaic tax and move my district forward toward school property tax independence.

REMARKS SUBMITTED FOR THE RECORD

Mr. ROZZI. Mr. Speaker, I would like to submit the rest of my comments for the record.

The SPEAKER pro tempore. The Chair thanks and applauds the gentleman.

Mr. ROZZI submitted the following remarks for the Legislative Journal:

My constituents feel the burden of school property taxes. There comes a time when you can no longer turn your head and let our parents and seniors lose their homes. Now is the time for action – there has never been a better time for action. I will be voting to free my constituents from this archaic tax and move my district forward towards school property tax independence. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of the amendment, the Chair recognizes the gentleman from Centre County, Representative Benninghoff.

The gentleman may proceed.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

We are here at 6 o'clock once again talking about the issue of property taxes, which is a good issue to talk about. I would like to try to refocus things a little bit if I could. We are actually specifically talking about an amendment, 3448, by Representative Cox, to HB 1189.

For a little history's sake, the Finance Committee for many years has tried to address this issue far beyond my tenure of 2 years. Ironically, I pulled up a little history about the '05 session, '06 session, and time and time again, a variable or similar proposal to this was offered, only to be defeated time and time again. Now, there will be those who will say it is changed, and yes, it is because the tax rate continues to rise. I would concur with that part. But I think it is interesting because this dialogue actually started with Representative Scavello and me in his office about 10 years ago, where we tried to look at the sales tax as a viable option to offer revenue to replace school taxes. At that time it was a little less than \$10 billion. Today we are looking at trying to replace \$13 billion. It is over a third of our State budget.

Mr. Speaker, if I could, I would like to ask the maker of the amendment a quick question just for my own clarification. As I said, I have seen so many renditions of this proposal in the last 8 or 9 years. We have seen 1776 for several years, and the latest version, now 76. I just want to make sure I am on track.

The SPEAKER pro tempore. Is the gentleman seeking to interrogate the maker of the amendment?

Mr. BENNINGHOFF. Yes, sir, Mr. Speaker.

The SPEAKER pro tempore. The gentleman indicates he will receive your interrogation. You may proceed.

Mr. BENNINGHOFF. Thank you. Thank you to both gentlemen.

Mr. Speaker, I want for clarification— I have heard the gentleman say that the bill has 150 pages in it, the original 76. I thought it was 135. This amendment has about 81 pages, and I just wanted to, for my own clarification, is the language in this the same as the language in HB 76, only being offered as an amendment?

Mr. COX. The design of the amendment was to take the text of HB 76 and put it in its entirety. I know the spacing of amendments is different than the spacing of bills, and I know that accounts for a good part of it.

Mr. BENNINGHOFF. So the content is the same; it is just laid out differently.

Mr. COX. I must confess, I have not read word for word for word for word, but I believe it is the content – the content should be identical. Those were the instructions given to our drafting bureau.

Mr. BENNINGHOFF. Okay. That is a little concerning, but—

Should I insinuate that the intent of the language is the same in the amendment as HB 76? Because that is important for me.

Mr. COX. The instructions given to the Legislative Reference Bureau were to take as much of HB 76 as possible and insert it into an amendment that would be able to be attached to HB 1189 as an amendment.

Mr. BENNINGHOFF. Okay. Well, I thank you on that, and we will take you at that word.

My question that follows that is, tonight we have the opportunity to vote on at least one piece of legislation – well, actually tomorrow – but HB 1189, which is a product of four different bills that came out of the Finance Committee, as some of us tried to provide our constituents some property tax relief. There is a philosophical difference, and I have moved away from that since 10 years ago when we tried for total elimination. We were not able to successfully do that because of not being able to raise enough revenue through the severe increases in the taxes we need to do.

My question is, are we asking— Pardon me.

You and I had a dialogue, and we agreed, I believe, last Friday that the language within 76 did not add up. There were severe amendments that needed – pardon me – severe revisions that needed done, and I think the agreed discussion was that it was not a matter of just adding a sentence or a simple amendment here and there, but basically, we were talking about rewriting the bill to make it not only concur with Article II of the sales and use tax code to reflect any legislative changes we had done in the last 6 to 8 years, but also respond to the pages and pages of the concerns raised by revenue so we could distinctively delineate what is taxed, what is not taxed, whether it is commodity or services. I thought that was what we agreed on Friday.

Mr. COX. The agreement was not so much an agreement as it was a statement that, you know, it was my understanding from what you were saying that the legislation does in fact require some changes. I acknowledged that it had some changes coming. We talked about my request from your staff and from others to continue working toward language that would accomplish that goal. As far as any of the drafting concerns and whatever, I will take this opportunity to answer the question within the question. I would much rather, I would much rather

be standing here today and only discussing why I do not think HB 1189 is good for Pennsylvania. But instead, I cannot get commitment out of anybody to move the bill even if I make all of the changes in the world to everyone's satisfaction as far as drafting errors. I have not been able to get the affirmation from anyone who has the ability to say whether the bill moves on whether the bill will even get a vote in the Finance Committee or a vote on the House floor—

Mr. BENNINGHOFF. I do not think that is really the question I have asked you, but I will answer that in a moment.

Mr. COX. Well, I say all that to say this—

The SPEAKER pro tempore. Excuse me, gentlemen. To remind, the arrangement here is that there are questions about the contents and understanding of the amendment and responses, and then we should be moving forward.

Mr. COX. Thank you, Mr. Speaker.

I am trying to answer his questions about – he is talking about a private conversation we had, and so I am trying to provide a little bit of context for it.

I would love to have a perfected bill, Mr. Speaker, but I am offering a bill, or an amendment, I should say, that contains, as I mentioned earlier, it is the concept, it is the principle behind what we are trying to do here, and if that is what we are forced to vote on because we cannot get any other kind of legislation run that accomplishes the same goal, then that is what we are going to have to settle for. People are going to have to cast their votes based on that and explain to their constituents why they voted for or against.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

On the amendment.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. BENNINGHOFF. What I am trying to clarify for all of you that are going to have to cast a vote very soon is whether or not you should have to cast a vote on a bill that knowingly is not ready. Whether it is called an amendment or a bill, it has not been balanced. And I think the minority chairwoman of Finance had a copy of the recent Fiscal Office report that – actually, we thought it was coming out tomorrow – it shows that it again comes up \$1 billion-plus short. When the committee was asked to run this bill a year ago and then by agreement tabled the bill with the maker of the amendment, we subsequently received two reports, an independent study done out of Michigan, which showed that the bill came up \$1.8 billion short. The IFO office then showed the same concerns with a deficit of about a \$1.5 billion shortfall.

Whether you have knowledge of all that, I think it is important to take note, and I apologize that you do not have this in hand, and I appreciate the minority chairwoman sharing this, but if you look, and you cannot, on page 32, I will just share it with you. The IFO office did a historical simulation of the school district funding under this proposal. They did it under a 10-year window from 2002-03 to 2012 to 2013. Consistently, this proposal shows a negative number in actual funding, and in the year 2012-13, it would be minus \$4 billion-plus, and I raise that not to scare you, but I think it is important that you have the information.

Earlier we heard today that we should have all the information before we vote for something. The reality is, as Finance chairman I would love to see this issue go away. I served on the Finance Committee under multiple chairmen, two of which were out of Berks County and were not able to get this proposal across or passed as well. And why is that? Because

you are trying to replace a moving number of \$13 billion currently.

The sales and use tax has been something we looked at. I have liked it because it was a consumption tax, but the reality is, in the last 6 years we have seen negative returns in the numbers projected for the sales and use tax 3 out of 6 years. Do you want to gamble the children's education of the Commonwealth on that kind of fiscal number? I do not.

I think everyone in this chamber would love to do something about property taxes. Most of us would love to eliminate property taxes, whether it is school or all of them, and frankly, if we were honest with ourselves, and most of our citizens would say the same, we would all like to eliminate all taxes, but the reality at the end of the day is we have to govern.

Now, it would be easy to just say, well, if the State just gave more money. Some of you have talked a few months ago about us having to hold back on the phaseout of the capital stock and franchise tax in preparation that we could continue to pass balanced on-time budgets. Passing a proposal tonight that we heard is the same language of a bill that is going to lead us to an additional billion-dollar deficit to the State budget, to me, is irresponsible just to go back home and tell people you voted to eliminate property taxes.

This is not about a motion. We have got to start talking about real numbers, real legislation, and not be getting our constituents fired up on something that is not that easy to deliver.

And more importantly, Mr. Speaker, and I will close on this, we have tried to offer other workable solutions. Three out of these four bills came out of committee on a unanimous bipartisan vote. My counter chair and I do not always agree on every issue, but we have agreed to try to work on these kinds of issues.

HB 1189 came out with only eight dissenting votes on it in a bipartisan manner. Our goal is to offer you something to be able to work to give your constituents some property tax relief. While that may not be music to the ears of those who want complete elimination, I ask you a simple question: What have you gotten in the last 10 years holding out for complete elimination? Nothing. Our constituents expect better, need better, and that is what the Finance Committee has been trying to do, will continue to do, and I think we need to give our consideration to these bills, but this amendment is not ready any more than HB 76 is and will only stop all progress on any of these proposals.

Mr. Speaker, I thank you for your time and to the members for your attention.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of the amendment, the Chair recognizes the gentleman from Carbon County, Representative Heffley.

Mr. HEFFLEY. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of amendment 03448.

I have heard a lot of discussion on this over the last 3 years since I have had the honor of being part of this House. I have heard it on the campaign trail, and I hear it when I go to the grocery store or anywhere in my district, town hall meetings, breakfasts, anything we do. People are begging and asking for property tax relief.

I do not believe that this amendment is the end-all, cure-all for the property tax problem. I do not know that it is perfect, but the system we have now is not perfect. When people can be

assessed on a \$74,000 home and have to pay \$7,000 a year in property taxes due to spot assessments, when we have communities in Carbon County which are becoming blighted because they cannot sell the homes because the property taxes are too high, when senior citizens are trying to sell their home and they are losing value in their home because of their property taxes that are assessed on that property, there is a problem with it.

I would encourage a positive vote on this amendment. I would encourage a positive vote on any of the bills that are before us right now. We need to address this issue. It is the number one issue, as I see it, in Carbon County and speaking with my colleagues across the State. I am glad that we are taking up this debate, I am glad that we are moving forward with it, and I would encourage my colleagues to vote in support of this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

We have reached that point in the debate where it is the custom of the House to recognize the prime sponsor of the underlying legislation and the maker of the amendment, and seeing no further members seeking recognition— Oh, I am so sorry. Delay that.

Batting ninth, the gentleman from Berks County, Representative Caltagirone.

Mr. CALTAGIRONE. Thank you, Mr. Speaker. Batter up.

Mr. Speaker, many of you I have talked to over the summer months when we were on hiatus from our chamber. To me, this is a lesson in courage – having the courage to make drastic changes to a system that is forcing people out of their homes, having the courage to stand up and be counted on as someone who realizes that we cannot continue to fund our schools utilizing a system that is based on a model of tight urban centers and vast rural spaces across this Commonwealth.

I have no problem standing here in front of you telling you where I stand. Those of you who are vacillating on eliminating the burdensome property tax, I realize that this amendment and HB 76 are not the perfect fixes, but I offer you this compromise. Let us not only discuss and eliminate property taxes, but let us look at the school funding formula. Let us have the courage to look at the back end of the issue, and that is the spending at our local levels. We need a change, we need to fund public education, but we need to do so with a fair and firm formula and review how the State's money is being spent at our local levels, and we need to control that funding.

I ask for your support of this amendment, but I also ask that you join me in starting to review the out-of-control spending since it is our fiduciary responsibility to watch how the State dollars are used. The lesson was not learned in Washington. Compromise and civility failed. We need to make sure that civility and compromise exists here in Harrisburg for the sake of our taxpayers. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the sponsor of the underlying bill, the gentleman from York County, Representative Grove.

Mr. GROVE. Thank you, Mr. Speaker.

I stand in opposition to A3448. Why? It is pretty simple. I am a policymaker, not a concept maker. We are entrusted by those who elect us to vote on policy which is drafted properly and uniform. I never believed one of our own colleagues would ask his fellow colleagues to vote for an amendment which,

admittedly, is not drafted properly and ready for floor action. It is irresponsible for anyone to vote on this amendment.

On June 17, 2013, the Pennsylvania Department of Revenue provided an analysis of this amendment in its bill form. The department provided five pages of errors and policy questions which need clarified by the prime sponsor. The department's fiscal impact shows a cut to the General Fund by \$1.4 billion on top of solely funding pensions for this State. Those pension increases are \$600 million next year for the State, double that for school districts. The following year \$1 billion, double that for school districts. That is our fiscal responsibility to pay those if this amendment is adopted into law.

It eliminates the Gaming Fund, which funds volunteer fire department grants, local law enforcement funding, compulsive gaming funding, drug and alcohol funding. I, for one, will not be going home and telling my volunteer fire departments I cut their grants or eliminated them.

I think I provided enough reasons to vote "no" on this amendment, but here is a big one. It absolves corporations of their property taxes and lays their property taxes directly on the backs of the working class. Tax fairness goes right out the door.

In closing, Mr. Speaker, I urge my colleagues to vote "no" on A3448. Stand by your constitutional duties and ensure we are policymakers, not concept makers.

Thank you, Mr. Speaker.

THE SPEAKER (SAMUEL H. SMITH) PRESIDING

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Berks County, Mr. Cox, for the second time.

Mr. COX. Thank you, Mr. Speaker.

We have heard a lot of the reasons tonight as to why we should not cast a vote for amendment 3448. We have also heard a lot of people give their reasons why we need to cast a vote for this amendment.

I am having trouble trying to decide where to start here, and so I am just going to put it out there as my thoughts come to me, and I am going to follow a few of my notes.

One of the earliest speakers on this amendment, the gentlelady from Luzerne County, referenced a report that she graciously provided to me that she received from the IFO. I had not seen that report until I made the request and she graciously complied and offered me a copy of it. The Democratic chairwoman of the Finance Committee provided me with a report that I was able to pore over a little bit, and I will go into some details on it, but I want to start by referencing some comments that were made just a few moments ago by our Republican Finance Committee chairman. He referenced a page of the report that – and again, I only saw this for the first time this afternoon, and so if somebody can correct me down the line, I would appreciate that – but my reading of this is the historical simulation of school district funding, that the numbers that the chairman and the gentleman from Centre County read appear to be numbers that do not include any of the cost controls that are contained in amendment 3448. And so the \$4 billion hole that is referenced appears to come from a report that would say, if we had no cost controls on school districts and we were trying to replace the funding using the revenues we

are proposing under this amendment, then and only then would we end up with a \$4 billion deficit. Now, again, I have not had time to dig through this report. It is 60 pages long. I just received it this afternoon, but that is my cursory reading of it, and when he cited those numbers, I pulled up the page he was talking about, and that is what it appears to be. So be careful on placing the reliance on somebody saying this is \$4 billion short when they are not acknowledging the cost controls that are contained in this amendment.

To people who say, I do not like this approach; I think there is a better way; if this was easy, we would have done it 40 years ago, to those people I and the other supporters of this amendment ask a very simple question, where are your bills? It is easy to say no. Political campaigns are accounts of, I do not like this and I do not like that, but the individual who wins and has a vision and who says, I have an idea and I am going to put it out there, those are the kind of people that our constituents look at and say, I want somebody who does not just say no; I want somebody who can come up with a possible solution on their own.

This legislation in the form of HB 76 has been around. It has been HB 1285. It has been HB 1776. It is now HB 76. Changes have been made. We have taken the information made available to us and we have tried to make changes to address the concerns that have been brought to our attention. And would I love to stand here this evening and say amendment 3448 is a finely crafted, fine-tuned piece of legislation that is ready to run and has no flaws and no errors? Would I love to stand here and say that? Absolutely. I cannot do that. But here is the catch-22 that I am in. I have repeatedly asked my Republican leadership if they would allow this bill to receive a vote in the Finance Committee if I took the time and worked with staff and worked with others and got the bill to the point of saying it is corrected and it does what I intend it to do. I have asked for that.

And so my question to you again is, if you were faced with the idea of the issue that is most important to your district – I do not go a single day without receiving faxes, e-mails, petitions, phone calls, you name it, communications to my office that say, take care of this property tax issue – and so if you were faced with the prospect of your legislation dying, dying on the vine, as some may say it, because you cannot get a fair discussion on it, even if you were to take the bill and fix all the drafting errors or all the concerns that have been raised, if you cannot get a commitment, what do you do? Nobody likes to be in this position. Nobody likes to go and say, I do not have a choice but to do it this way, but that is where I am.

The thinking around this Capitol, the thinking from a lot of constituents that I have interacted with on this issue and on other issues is, once the legislature feels they deal with an issue, they never return to it. As a quick evidence of that, I would like to direct everyone's attention back to February of 2008. Why February 2008? Because that is the last time we had meaningful discussion on property taxes on this House floor. The Democratic leadership brought up a property tax bill sponsored by then chairman of the Finance Committee. One of my colleagues from Berks County offered an amendment, much like I am being forced to do here, that basically said, here is where we are, and unfortunately, we are placed in a position of, if you do not like everything that is contained in this amendment, if you do not like the fact that it is not drafted the way it technically needs to be, I get that; I understand.

Some of you are going to say to your constituents, I could not vote for a bill that was not fine-tuned, and I get that. But I want you to think about this. This vote this evening may very well be your last chance to cast a vote anywhere near property tax elimination. I have no assurances that we are going to see this topic again. So if this issue is important to you, and I call on the 88 cosponsors of HB 76, I ask you to stick with me, and I ask those of you who have said, if it comes up to the floor, I will cast a vote; even though I am not a cosponsor, I will cast a vote, I ask you to stick with me. Your constituents will be expecting you to cast a vote that reflects what you have told them. They are watching this vote. They are not going to want to hear excuses.

I cannot stand here and say this bill is what I would like it to be, that this amendment is what I would like it to be, but, Mr. Speaker, this is the only opportunity that we have. Short of getting assurances that we will see this issue again, I have no choice.

The once-and-done mentality that pervades the thinking of this Capitol on all too many issues is a concern that some have addressed with the – some have pointed out with the pension issue that we tackled a little bit in 2010, but we certainly need to go back and fix it. I am hopeful we can do that. But once an issue is addressed, it is rarely reexamined for a long period of time. For property taxes at this level, it has been 5 full years.

One of my colleagues in his previous comments used what I think was intended as a scare tactic that our corporations might receive a tax break under this amendment. I shuddered in horror as I thought of the prospect of corporations with an extra \$15,000, \$20,000, \$100,000 in their pockets. I shudder with the prospect of the idea that they might actually create a new job with that or new jobs. It struck fear in my heart that employers might actually have more money to invest in their communities. I do not know why we are so afraid of helping our businesses create those jobs.

I have had some great discussions with colleagues on both sides of the aisle that understand that businesses are the job creators, and when they have extra money in their pocket, yes, some of them will say, I am using it to buy a vacation home. Maybe they will buy a vacation home in the Poconos and stimulate that economy, but the bottom line is, the job creators, while they will receive property tax elimination under this amendment, will also be paying additional taxes. Seventy-five-plus percent of business owners and businesses pay taxes under the personal income tax. They are not structured as a corporation. They are an S corporation. They are a sole proprietorship and other types of organizations, other types of business structures that pay taxes under the personal income tax, a tax that we are increasing. So they are not getting off scot-free, but they are going to have the ability to invest any difference into their communities and create new jobs. If that terrifies you, then be a "no" vote here. If it terrifies you to think that a student who is faced with an educational structure, an educational system that is inequitably funded, if that does not bother you, be a "no" vote here, but if you would like to address the inequities here, this is an opportunity to do it. This is an opportunity to set the stage.

And so while this bill may reflect – or while this amendment may reflect a concept, I do wish it could be more. My hands have been tied, and so this is what I offer. There are other proposals out there to address some of the concerns that have been raised, whether it be pension or funding formulas or other

things. This amendment does not attempt to do that, nor does the underlying bill on which it is based.

If you are for property tax elimination, if you are for giving your constituents the opportunity to own their homes and eliminate their school property taxes— We are not getting rid of all taxes. I need to make that clear. Some people have said I have been disingenuous on it. We are not eliminating all property taxes. What this amendment would do would be to eliminate school property taxes. It does not do it immediately, but again, using the numbers provided to me, you will provide your constituents in the first full year with at least an 80-percent reduction in their school property taxes, if not more, and then over time they will be eliminated completely.

I do not have a crystal ball. I cannot guarantee that we will see this issue again. My perception, what I have seen – I have been on staff and/or here as a legislator for about 14 years now – history repeats itself. This issue will not go away. It may be another 5 years before we see it, but I urge you this evening, this is your chance. Taxpayers are watching. Your constituents are watching. This is your chance.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS–59

Aument	Fee	Keller, M.K.	Painter
Barrar	Fleck	Knowles	Regan
Bloom	Flynn	Krieger	Rock
Boback	Galloway	Lawrence	Rozzi
Brown, R.	Gibbons	Lucas	Saccone
Caltagirone	Gillen	Mackenzie	Scavello
Christiana	Gillespie	Maher	Simmons
Cox	Goodman	Mahoney	Stern
Cutler	Greiner	Maloney	Swanger
Davidson	Hahn	Masser	Tobash
Davis	Harhart	Mentzer	Toepel
Day	Heffley	Miccarelli	Toohil
Denlinger	Helm	Moul	Truitt
Ellis	Hickernell	Mullery	Vereb
Emrick	Kauffman	Mundy	

NAYS–138

Adolph	Dunbar	Major	Quinn
Baker	English	Markosek	Rapp
Barbin	Evankovich	Marshall	Ravenstahl
Benninghoff	Everett	Marsico	Readshaw
Bishop	Fabrizio	Matzie	Reed
Bizzarro	Farina	McCarter	Reese
Boyle, B.	Farry	McGeehan	Roae
Boyle, K.	Frankel	McGinnis	Roebuck
Bradford	Freeman	McNeill	Ross
Briggs	Gainey	Metcalfe	Sabatina
Brooks	Gergely	Metzgar	Sainato
Brown, V.	Grell	Micozzie	Samuelson
Brownlee	Grove	Millard	Sankey
Burns	Hackett	Miller, D.	Santarsiero
Carroll	Haggerty	Miller, R.	Saylor
Causar	Haluska	Milne	Schlossberg
Clay	Hanna	Mirabito	Schreiber
Clymer	Harhai	Miranda	Sims
Cohen	Harkins	Molchany	Smith
Conklin	Harper	Murt	Snyder
Corbin	Harris, A.	Mustio	Sonney
Costa, D.	Harris, J.	Neilson	Stephens
Costa, P.	Hennessey	Neuman	Stevenson
Cruz	James	O'Brien	Sturla

Culver	Kampf	O'Neill	Tallman
Daley, M.	Kavulich	Oberlander	Taylor
Daley, P.	Keller, F.	Parker	Thomas
Dean	Keller, W.	Pashinski	Turzai
Deasy	Killion	Payne	Vitali
DeLissio	Kim	Peifer	Waters
Delozier	Kinsey	Petrarca	Watson
DeLuca	Kirkland	Petri	Wheatley
Dermody	Kotik	Pickett	White
DiGirolamo	Kula	Pyle	Youngblood
Donatucci	Longietti		

NOT VOTING–0

EXCUSED–5

Evans	Gingrich	Godshall	Kortz
Gabler			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration?

Mr. GROVE offered the following amendment No. A03501:

Amend Bill, page 9, by inserting between lines 4 and 5

(6) The gross premiums of any insurance company authorized to do business in this Commonwealth.

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from York County, Mr. Grove, for a brief description of the amendment.

Mr. GROVE. Thank you, Mr. Speaker.

This is a technical amendment to ensure the mercantile business privilege taxes conform to the current taxes already offered in the Commonwealth. It is an agreed-to amendment and technical in nature. Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS–192

Adolph	Dunbar	Kinsey	Pickett
Aument	Ellis	Kirkland	Pyle
Baker	Emrick	Knowles	Quinn
Barbin	English	Kotik	Rapp
Barrar	Evankovich	Krieger	Ravenstahl
Benninghoff	Everett	Kula	Readshaw
Bishop	Fabrizio	Lawrence	Reed
Bizzarro	Farina	Longietti	Reese
Bloom	Farry	Mackenzie	Regan
Boback	Fee	Maher	Roae
Boyle, B.	Fleck	Mahoney	Rock
Boyle, K.	Flynn	Major	Roebuck
Bradford	Frankel	Maloney	Ross
Briggs	Freeman	Markosek	Rozzi
Brooks	Gainey	Marshall	Sabatina
Brown, R.	Galloway	Marsico	Saccone
Brown, V.	Gergely	Masser	Sainato

Brownlee	Gibbons	Matzie	Samuelson
Burns	Gillen	McCarter	Sankey
Caltagirone	Gillespie	McGeehan	Santarsiero
Carroll	Goodman	McGinnis	Saylor
Causer	Greiner	McNeill	Scavello
Christiana	Grell	Mentzer	Schlossberg
Clay	Grove	Miccarelli	Schreiber
Clymer	Hackett	Micozzie	Simmons
Cohen	Haggerty	Millard	Sims
Conklin	Hahn	Miller, D.	Smith
Corbin	Haluska	Miller, R.	Snyder
Costa, D.	Hanna	Milne	Sonney
Costa, P.	Harhai	Mirabito	Stephens
Cox	Harhart	Miranda	Stern
Cruz	Harkins	Molchany	Stevenson
Culver	Harper	Moul	Sturla
Cutler	Harris, A.	Mundy	Swanger
Daley, M.	Harris, J.	Murt	Tallman
Daley, P.	Heffley	Mustio	Taylor
Davidson	Helm	Neilson	Thomas
Davis	Hennessey	Neuman	Tobash
Day	Hickernell	O'Brien	Toepel
Dean	James	O'Neill	Toohil
Deasy	Kampf	Oberlander	Turzai
DeLissio	Kauffman	Painter	Vereb
Delozier	Kavulich	Parker	Vitali
DeLuca	Keller, F.	Pashinski	Waters
Denlinger	Keller, M.K.	Payne	Watson
Dermody	Keller, W.	Peifer	Wheatley
DiGirolamo	Killion	Petrarca	White
Donatucci	Kim	Petri	Youngblood

NAYS—5

Lucas	Metzgar	Mullery	Truitt
Metcalfe			

NOT VOTING—0

EXCUSED—5

Evans	Gingrich	Godshall	Kortz
Gabler			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on second consideration as amended?

The SPEAKER. It is the understanding of the Chair that all the other amendments have been withdrawn.

And additionally, the Speaker is in receipt of a request from Representative Cox and Representative Barrar for a roll-call vote on second consideration of HB 1189.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The following roll call was recorded:

YEAS—131

Adolph	English	Keller, F.	Pashinski
Aument	Evankovich	Keller, M.K.	Payne
Baker	Everett	Killion	Peifer
Barbin	Fabrizio	Kim	Petri

Benninghoff	Farry	Kotik	Pickett
Bizzarro	Fee	Krieger	Pyle
Bloom	Fleck	Kula	Quinn
Boyle, B.	Flynn	Lawrence	Reed
Bradford	Freeman	Maher	Reese
Brown, R.	Gainey	Mahoney	Regan
Burns	Galloway	Major	Ross
Caltagirone	Gergely	Markosek	Saccone
Carroll	Gibbons	Marshall	Samuelson
Causer	Gillespie	Marsico	Sankey
Christiana	Greiner	Masser	Santarsiero
Clymer	Grell	McGinnis	Saylor
Cohen	Grove	Mentzer	Scavello
Conklin	Hackett	Metcalfe	Schlossberg
Corbin	Haggerty	Metzgar	Schreiber
Costa, D.	Hahn	Miccarelli	Smith
Culver	Haluska	Micozzie	Snyder
Cutler	Hanna	Millard	Sonney
Daley, P.	Harhart	Miller, D.	Stephens
Davidson	Harkins	Miller, R.	Stern
Day	Harper	Milne	Stevenson
DeLissio	Harris, A.	Moul	Tallman
Delozier	Heffley	Mundy	Taylor
DeLuca	Helm	Murt	Thomas
Denlinger	Hennessey	Mustio	Toohil
Dermody	Hickernell	Neuman	Turzai
Dunbar	James	O'Neill	Watson
Ellis	Kampf	Oberlander	White
Emrick	Kavulich	Painter	

NAYS—66

Barrar	Donatucci	McCarter	Roebuck
Bishop	Farina	McGeehan	Rozzi
Boback	Frankel	McNeill	Sabatina
Boyle, K.	Gillen	Mirabito	Sainato
Briggs	Goodman	Miranda	Simmons
Brooks	Harhai	Molchany	Sims
Brown, V.	Harris, J.	Mullery	Sturla
Brownlee	Kauffman	Neilson	Swanger
Clay	Keller, W.	O'Brien	Tobash
Costa, P.	Kinsey	Parker	Toepel
Cox	Kirkland	Petrarca	Truitt
Cruz	Knowles	Rapp	Vereb
Daley, M.	Longietti	Ravenstahl	Vitali
Davis	Lucas	Readshaw	Waters
Dean	Mackenzie	Roae	Wheatley
Deasy	Maloney	Rock	Youngblood
DiGirolamo	Matzie		

NOT VOTING—0

EXCUSED—5

Evans	Gingrich	Godshall	Kortz
Gabler			

The majority having voted in the affirmative, the question was determined in the affirmative and the bill as amended was agreed to.

(Bill as amended will be reprinted.)

HEALTH COMMITTEE MEETING

The SPEAKER. I apologize. For what purpose does the gentleman from Tioga County, Mr. Baker, rise?

Mr. BAKER. A friendly reminder of a committee meeting tomorrow.

The SPEAKER. The gentleman may make his announcement.

Mr. BAKER. Thank you, Mr. Speaker.

There will be a meeting at the call of the Chair of the Health Committee for consideration of two bills, and I will announce that tomorrow, but I just wanted to give the reminder to the Health Committee members. Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

There will be a Health Committee meeting tomorrow at the call of the Chair.

For the information of the members, there will be no further votes.

Go Bucs.

BILLS RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 28;
HB 612;
HB 1189;
HB 1523; and
HB 1594.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 20 and HB 1538 be removed from the tabled calendar and placed on the active calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. Seeing no further business before this House, the Speaker recognizes the gentleman, Mr. Rozzi, from Berks County, who moves that this House do adjourn until Wednesday, October 2, 2013, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 6:41 p.m., e.d.t., the House adjourned.