

COMMONWEALTH OF PENNSYLVANIA

# Legislative Journal

TUESDAY, APRIL 29, 2008

SESSION OF 2008 192ND OF THE GENERAL ASSEMBLY

No. 25

## SENATE

TUESDAY, April 29, 2008

The Senate met at 1 p.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

## PRAYER

The Chaplain, Reverend BEVERLY BUTLER, of Lehman-Idetown United Methodist Church, Lehman, offered the following prayer:

It is a privilege and an honor to be with you today. I invite you to join me in prayer.

Loving Creator God, we are humble in Your presence. Your awesome power and infinite goodness is ever before us. We know how You love beauty, as we see the colors of spring bursting forth around us. We lift to You today our praises for this day, for health and strength, for families and friends, for the air we breathe, the water we drink, and the food we eat, and for all the many, many blessings that we too often take for granted. We confess the ways we fall short of the high calling for holy living, forgetting concern for the earth and those in need. When we choose violence over peace and thought, word, or deed, forgive us, we pray. Give us courage to speak and act on behalf of justice and to work for Your peace in our nation and in our world and in our hearts.

Eternal God, we thank You for loving us and for not giving up on us even when we are tempted to give up on You. We thank You for Your presence with all gathered here today. We know much responsibility weighs upon this Senate, and so we pray for Your wisdom and Your guidance for all discussions and all decisions that will be made here today. We ask Your blessing upon the Commonwealth of Pennsylvania, upon our nation, and upon our world. And again, we thank You for Your presence with us and for all Your blessings and all Your goodness, as we pray in Your name. Amen.

The PRESIDENT. The Chair thanks Reverend Beverly Butler, who is the guest today of Senator Baker.

## PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

## BILLS REPORTED FROM COMMITTEES

Senator RHOADES, from the Committee on Education, reported the following bills:

### SB 472 (Pr. No. 547)

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, establishing the Science Technology Partnership Program; and providing for State grants.

### SB 731 (Pr. No. 1986) (Amended)

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for possession and use of asthma inhalers.

### SB 1283 (Pr. No. 1782)

An Act providing for reports relating to disciplinary action taken by State-owned institutions, State-related institutions and community colleges.

### SB 1285 (Pr. No. 1784)

An Act requiring State institutions of higher education and independent institutions of higher education to provide parents of students enrolled at each institution with information relating to the institution's drug and alcohol policy, the student disciplinary process and notification of a parent following a student's violation of the drug and alcohol policy.

### SB 1312 (Pr. No. 1835)

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for State reimbursement for health services.

### SB 1315 (Pr. No. 1852)

An Act providing for a Postsecondary Education Tuition Reimbursement Program for volunteer firefighters and emergency services personnel.

Senator BAKER, from the Committee on Veterans Affairs and Emergency Preparedness, reported the following bills:

### HB 775 (Pr. No. 3081)

An Act amending the act of June 11, 1935 (P.L.326, No.149), entitled "An act relating to counties of the first class; defining deceased service persons; providing for contributions by the county to the funeral

expenses for such persons and their widows; providing for the erection and care of markers, headstones, and flags, and for the compilation of war records," further providing for flags, markers and headstones.

#### HB 776 (Pr. No. 3082)

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for flags and grave markers of certain deceased service persons.

#### HB 777 (Pr. No. 3083)

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for markers on graves and for flags to decorate graves.

Senator M.J. WHITE, from the Committee on Environmental Resources and Energy, reported the following bills:

#### SB 1062 (Pr. No. 1983) (Amended)

An Act providing for reimbursement to developers of brownfield sites; authorizing the Secretary of Environmental Protection to enter into redevelopment agreements; and establishing the Brownfield Site Reimbursement Fund.

#### SB 1330 (Pr. No. 1984) (Amended)

An Act establishing the Coal Methane Review Board to resolve disputes between property owners over the location of coal bed methane wells and access roads.

### RESOLUTIONS REPORTED FROM COMMITTEES

Senator BAKER, from the Committee on Veterans Affairs and Emergency Preparedness, reported the following resolution:

#### SR 296 (Pr. No. 1976)

A Resolution designating May 1, 2008, as "Loyalty Day" in Pennsylvania.

Senator M.J. WHITE, from the Committee on Environmental Resources and Energy, reported the following resolution:

#### SR 294 (Pr. No. 1985) (Amended)

A Resolution reaffirming that the consent of the Commonwealth of Pennsylvania to the acquisition of Allegheny National Forest Lands by the United States is conditioned on the preservation of property interests of the Commonwealth of Pennsylvania and privately owned property interests.

The PRESIDENT. The resolutions will be placed on the Calendar.

### LEAVE OF ABSENCE

Senator MELLOW asked and obtained a leave of absence for Senator WASHINGTON, for today's Session, for personal reasons.

### SPECIAL ORDER OF BUSINESS JOURNAL APPROVED

The PRESIDENT. The Journal of the Session of March 31, 2008, is now in print.

The Clerk proceeded to read the Journal of the Session of March 31, 2008.

Senator PILEGGI. Madam President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,  
Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

#### YEA-49

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Waugh
Brubaker	Hughes	Pippy	White, Donald
Corman	Kasunic	Punt	White, Mary Jo
Costa	Kitchen	Rafferty	Williams, Anthony H.
Dinniman	LaValle	Regola	Williams, Constance
Earl	Logan	Rhoades	Wonderling
Eichelberger	Madigan	Robbins	Wozniak
Erickson	McIlhinney	Scarnati	
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

#### NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

### SPECIAL ORDER OF BUSINESS GUESTS OF SENATOR GIBSON E. ARMSTRONG PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Armstrong.

Senator ARMSTRONG. Madam President, with us in the Senate today is a gentleman by the name of Jack Stumpf, who is from my district. Also in the gallery are 20 of his friends. He is being recognized today for his making of replicas of the Conestoga wagon. From 1980 to 1999, Mr. Stumpf constructed 182 Conestoga wagons, which are one-eighth scale. He has generously donated one of these wagons to the Commonwealth, and it is being displayed now in the Capitol in the East Wing Rotunda. I urge you to go down and take a look at it, because all the details of a Conestoga wagon are there. It will be on display until May 9, and thereafter, it is going to go to the Landis Valley Museum, where it will be on permanent display. Mr. Stumpf also donated a wagon to President Ronald Reagan when he was in office, and it is now on display at the Ronald Reagan Library in California.

We recognized Mr. Stumpf earlier today with a citation for his contribution, but this is a passion of his, and he donates his time and material and everything else. I urge you to go back to the

East Wing Rotunda and just take a look at it, because it is part of our history, and Conestoga is located in my district, and it was the work horse, the work wagon at that time, that developed our nation.

So at this time, if you would, Madam President, recognize Mr. Stumpf and his guests in the gallery.

The PRESIDENT. Jack Stumpf, thank you so much, and all of your guests, please rise so we can welcome you to the Pennsylvania State Senate.

(Applause.)

### **GUESTS OF SENATOR DOMINIC F. PILEGGI PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, it is my pleasure today to introduce Karen Ammon and her daughter, Emily Ammon, who are visiting the State Capitol today. Mrs. Ammon and Emily are residents of Newlin Township in Chester County, which is in Senator Dinniman's district, the 46th Senatorial District. Emily is in fourth grade at Unionville Elementary School. The Ammons are visiting Harrisburg today as winners of a silent auction which was sponsored by the Unionville-Chadds Ford Education Foundation, a nonprofit organization created by a group of parents dedicated to supporting the education of children in the school district. Mrs. Ammon and Emily spent the day in Harrisburg and are here with us today in the Senate. They are seated in the gallery. Madam President, I ask that we extend our traditional warm welcome to both of our visitors.

The PRESIDENT. Will Emily and her mother please rise so we can welcome you.

(Applause.)

### **GUESTS OF THE PRESIDENT PRESENTED TO THE SENATE**

The PRESIDENT. To all of our other students who have come here, welcome to the Pennsylvania State Senate.

### **RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Majority Caucus Room. I expect the caucus to last approximately 1 hour.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request a caucus of the Senate Democrats to be held in our caucus room.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

### **AFTER RECESS**

The PRESIDENT. The time of recess having expired, the Senate will come to order.

### **LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a temporary Capitol leave for Senator Punt.

The PRESIDENT. Senator Pileggi requests a temporary Capitol leave for Senator Punt.

The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, I request a legislative leave for Senator Connie Williams.

The PRESIDENT. Senator O'Pake requests a legislative leave for Senator Connie Williams.

Without objection, the leaves will be granted.

### **CALENDAR**

#### **THIRD CONSIDERATION CALENDAR**

#### **BILL OVER IN ORDER**

**HB 500** -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

#### **BILL AMENDED**

**HB 501 (Pr. No. 3217)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, providing for perfusionist licensing, qualifications, supervision and scope of practice, regulations and exemptions.

On the question,

Will the Senate agree to the bill on third consideration?

Senator MELLOW offered the following amendment No. A6788:

Amend Sec. 2 (Sec. 2.1), page 3, line 13, by inserting after "practitioners," perfusionists.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator PILEGGI.

#### **BILL OVER IN ORDER TEMPORARILY**

**SB 820** -- Without objection, the bill was passed over in its order temporarily at the request of Senator PILEGGI.

#### **BILL AMENDED**

**SB 1107 (Pr. No. 1843)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 23 (Domestic Relations) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for

modification of existing custody orders; and providing for protection of deployed members of the Pennsylvania National Guard and reserve components in child custody arrangements.

On the question,

Will the Senate agree to the bill on third consideration?

Senator FOLMER offered the following amendment No. A6762:

Amend Sec. 1 (Sec. 5310), page 1, line 15, by striking out "MILITARY CHILD CUSTODY PROTECTION" and inserting: child custody proceedings during military deployment

Amend Sec. 2 (Sec. 4109), page 2, line 3, by striking out "Military child custody protection" and inserting: Child custody proceedings during military deployment

Amend Sec. 2 (Sec. 4109), page 2, line 15, by striking out "proceeding covered" and inserting: temporary custody order entered

Amend Sec. 2 (Sec. 4109), page 2, line 19, by striking out "or" and inserting: of

Amend Sec. 2 (Sec. 4109), page 3, lines 2 and 3, by striking out "absence, relocation or"

Amend Sec. 2 (Sec. 4109), page 3, line 3, by striking out "comply" and inserting: appear

Amend Sec. 2 (Sec. 4109), page 3, lines 5 through 16, by striking out all of said lines

Amend Sec. 2 (Sec. 4109), page 3, line 17, by striking out "(f)" and inserting: (e)

Amend Sec. 2 (Sec. 4109), page 3, line 21, by striking out "(g)" and inserting: (f)

Amend Sec. 2 (Sec. 4109), page 4, line 2, by striking out "members;" and inserting: members:

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator PILEGGI.

#### BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1269 (Pr. No. 1731)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in juvenile matters, adding definitions; and further providing for other basic rights and for adjudications of juveniles.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

#### YEA-45

Armstrong	Folmer	O'Pake	Stout
Baker	Fontana	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Waugh
Brubaker	Hughes	Pippy	White, Donald
Corman	Kasunic	Punt	White, Mary Jo

Costa	LaValle	Rafferty	Williams, Constance
Dinniman	Logan	Regola	Wonderling
Earl	Madigan	Rhoades	Wozniak
Eichelberger	McIlhinney	Robbins	
Erickson	Mellow	Scarnati	
Ferlo	Musto	Stack	

#### NAY-4

Fumo	Kitchen	Tartaglione	Williams, Anthony H.
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A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

#### SECOND CONSIDERATION CALENDAR

##### BILL ON SECOND CONSIDERATION REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

**SB 684** -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

##### BILLS OVER IN ORDER

**HB 239, SB 428, SB 615 and HB 675** -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

##### BILL ON SECOND CONSIDERATION

**SB 1028 (Pr. No. 1328)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 1, 1933 (P.L. 103, No. 69), known as The Second Class Township Code, further providing for public roads.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

##### BILL AMENDED

**HB 1044 (Pr. No. 3511)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for powers and duties of the Municipal Police Officers' Education and Training Commission, for police training and for powers of home rule charter counties.

On the question,

Will the Senate agree to the bill on second consideration?

Senator MELLOW offered the following amendment No. A6662:

Amend Title, page 1, lines 4 and 5, by striking out ", for police training and for powers of" in line 4 and all of line 5 and inserting: and for police training.

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator PILEGGI.

### LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request temporary Capitol leaves for Senator Fumo and Senator Tartaglione.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Fumo and Senator Tartaglione. Without objection, the leaves will be granted.

### CONSIDERATION OF CALENDAR RESUMED

#### SECOND CONSIDERATION CALENDAR RESUMED

##### BILL ON SECOND CONSIDERATION, AMENDED

**SB 1063 (Pr. No. 1875)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, in local tax, further providing for definitions, for delegation of tax powers and restrictions, for recapture of tax, for payroll tax, for nonresident sports facility usage fees, for vacation of tax ordinances and resolutions, for advertising tax ordinances, for second class city tax rates, for taxpayer appeals, for filing ordinances, for limitation on tax rates, for withholding of local services taxes, for administrative personnel and joint agreements, for audits of earned income and other taxes, for payment of tax to other taxing authorities as credits or deductions, for personal property, for assessment limitations and for tax limitations; providing for legal representation, for restricted use, for consolidated collection of local income taxes, for collection of delinquent taxes and for miscellaneous provisions; further providing for penalties and for repeals; and making editorial changes.

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

##### EARLL AMENDMENT A6799

Senator EARLL offered the following amendment No. A6799:

Amend Sec. 13 (Sec. 10), page 34, line 19, by inserting after "subdivision": public employee.

Amend Sec. 19 (Sec. 14), page 54, lines 23 and 24, by striking out all of said lines and inserting: [act] chapter.

Amend Sec. 19 (Sec. 14), page 54, line 29, by striking out "or the 'Taxpayer Relief Act'"

Amend Sec. 19 (Sec. 14), page 55, lines 5 and 6, by striking out "[act.] chapter or the 'Taxpayer Relief'" in line 5 and all of line 6 and inserting: [act] chapter.

Amend Sec. 19 (Sec. 14), page 55, lines 9 and 10, by striking out "or the 'Taxpayer Relief Act'"

Amend Sec. 19 (Sec. 14), page 55, lines 18 and 19, by striking out "[act.] chapter or" in line 18 and all of line 19 and inserting: [act] chapter.

Amend Sec. 19 (Sec. 14), page 56, lines 1 and 2, by striking out "or the 'Taxpayer Relief Act.'"

Amend Sec. 19 (Sec. 14), page 56, lines 25 and 26, by striking out "or the 'Taxpayer Relief Act'"

Amend Sec. 23 (Sec. 501), page 67, line 13, by inserting after "A": public

Amend Sec. 23 (Sec. 501), page 67, line 21, by striking out "The tax bureau, political subdivision" and inserting: A political subdivision, public employee, tax bureau

Amend Sec. 23 (Sec. 504), page 73, lines 6 through 8, by striking out "most recently available data" in line 6, all of line 7 and "this section" in line 8 and inserting: 2000 Federal Decennial Census

Amend Sec. 23 (Sec. 505), page 75, line 9, by striking out "A joint tax collection committee shall have the" and inserting: Such agreements may assign to a joint tax collection committee some or all of the

Amend Sec. 23 (Sec. 505), page 75, by inserting between lines 14 and 15:

(9) To borrow money, accept grants, incur indebtedness and issue notes, debentures and other obligations to evidence borrowing for the purposes for which it is organized in an amount not to exceed 50% of the total revenues anticipated in the following fiscal year.

Amend Sec. 23 (Sec. 505), page 75, line 21, by removing the comma after "that"

Amend Sec. 23 (Sec. 505), page 75, line 23, by striking out "delegate and one alternate" and inserting: voting delegate and one or more alternates

Amend Sec. 23 (Sec. 505), page 75, lines 24 through 26, by striking out "Each" in line 24, all of line 25 and "subdivision represented. A" in line 26 and inserting: A voting

Amend Sec. 23 (Sec. 505), page 75, line 30; page 76, line 1, by striking out "January 1, 2008" and inserting: July 1, 2009

Amend Sec. 23 (Sec. 505), page 76, line 2, by striking out "representative" and inserting: delegate and one or more alternates

Amend Sec. 23 (Sec. 505), page 76, line 3, by striking out "a" and inserting: the

Amend Sec. 23 (Sec. 505), page 76, line 5, by striking out "representative" and inserting: delegate

Amend Sec. 23 (Sec. 505), page 78, line 20, by inserting after "THE" where it appears the second time: voting

Amend Sec. 23 (Sec. 505), page 78, line 22, by striking out "from among the delegates" and inserting: , each of whom must be duly appointed voting delegates.

Amend Sec. 23 (Sec. 505), page 78, line 22, by inserting after "secretary": who need not be a duly appointed voting delegate

Amend Sec. 23 (Sec. 505), page 80, lines 29 and 30, by striking out "act of June 21, 1957 (P.L.390, No.212), referred to as the

Amend Sec. 23 (Sec. 505), page 81, line 15, by inserting after "appeals": , other than those brought under subsection (k).

Amend Sec. 23 (Sec. 505), page 81, by inserting after line 30:

(k) Mediation and appeals of tax collector actions.--

(1) Any dispute among the affected parties involving a 10% or greater deviation from taxes received in the previous tax year shall be subject to mandatory mediation under this section, in accordance with regulations and guidelines to be adopted by the department. A dispute involving less than the 10% threshold may be the subject of voluntary mediation in accordance with regulations and guidelines to be adopted by the department.

(2) One or more affected political subdivisions shall give written notice to the tax collection committee and the department of its desire to submit the disputed matter to mediation by the department. Thereafter, the affected political subdivisions, tax collection committee and tax officer shall submit to mediation to which the following provisions shall apply:

(i) Within 20 days of submission of the written notice, the affected political subdivisions, tax collection committee and tax officer shall each submit to the mediator and each other party to the mediation a statement of no more than five pages, stating the position of such party as to the disputed and undisputed facts and issues in the case and whether prior settlement negotiations have occurred.

(ii) Within 30 days of submission of the written notice, the department shall determine whether the dispute meets the threshold conditions for mandatory mediation under paragraph (1), which decision shall be final and not appealable. Notice of such determination shall be given in writing to all affected parties.

(iii) If the mediator determines that the dispute meets the threshold conditions of paragraph (1), a mediation shall be commenced in accordance with procedures established under guidelines adopted by the department. The mediation efforts shall be completed no later than 30 days following the notice that the dispute has met the threshold requirement of paragraph (1), unless the time period is extended by mutual agreement of the parties to the mediation. The parties shall have any official authorized to settle the matter on their behalf available at the mediation. At the discretion of the mediator, the mediation may be held via telephonic communication or in person.

(iv) The mediation sessions shall be closed to the public and shall not be subject to the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(v) No offers or statements made in a mediation session, excluding the final written settlement agreement, if any, shall be admissible as evidence in any subsequent judicial or administrative proceedings in accordance with the provisions of 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents).

(vi) If a settlement is reached during the mediation, the department shall prepare a written settlement agreement and obtain all necessary signatures of the parties within 30 days of the agreement of the parties to settle the issue. The settlement agreement shall be binding upon the parties to the agreement. Such settlement agreement shall be subject to the provisions of the Right-to-Know Law. Such agreements shall be admissible as evidence in any subsequent judicial or administrative proceedings in accordance with the provisions of the Pennsylvania Rules of Court, the Pennsylvania Rules of Evidence and 42 Pa.C.S. § 5949.

(vii) If the mediation has not resulted in a written agreement signed by the parties as provided in subparagraph (vi), the mediation shall be deemed to have been unsuccessful unless all parties and the department agree in writing to extend the mediation. The mediator shall have the right to determine that the mediation has been unsuccessful and to terminate the mediation if the parties have not executed a settlement agreement by the ending date of the extension, or any further extension agreeable to the affected parties and the mediator.

(ix) Costs incurred by the department for a mandatory mediation under this section shall be equitably assessed by the department against the parties to the mediation. The assessment of costs shall be final and not appealable.

(3) The department shall adopt guidelines to further provide for the mandatory and voluntary mediation processes in this subsection.

Amend Sec. 23 (Sec. 505), page 82, line 1, by striking out "(k)" and inserting: (l)

Amend Sec. 23 (Sec. 505), page 82, lines 9 through 14, by striking out all of said lines and inserting:  
committee and shall be weighted in direct proportion to income tax revenues collected in each participating political subdivision based on the political subdivision's most recent annual audit report required under this section.

Amend Sec. 23 (Sec. 506), page 82, lines 25 and 26, by striking out all of line 25, "EMPLOYEE, TAX BUREAU or private agency" in line 26 and inserting: a tax officer

Amend Sec. 23 (Sec. 506), page 83, line 1, by striking out "or"

Amend Sec. 23 (Sec. 506), page 83, line 3, by striking out "509(d)." and inserting:  
509(d):

(4) has not satisfied the mandatory education requirements under section 508(e); or

(5) does not meet the qualifications and requirements established by the department under section 508(f).

Amend Sec. 23 (Sec. 508), page 86, by inserting between lines 22 and 23:

(4) Nothing in this subsection shall be construed to authorize the department to compel the disclosure of information that is confidential, proprietary or a trade secret.

(e) Mandatory education for tax officers.—Persons and entities seeking or maintaining appointment as tax officers shall complete mandatory education as a prerequisite for their appointment and, for continuing appointment, not less than annually. The department shall provide the mandatory education and shall adopt regulations, guidelines and procedures for the mandatory education sufficient to meet the require-

ments of this act.

(f) Establishment of qualifications and requirements.—

(1) The department shall, by regulation, establish the qualifications and requirements a tax officer must meet prior to being appointed and must meet for continuing appointment.

(2) A tax collection committee may establish additional qualifications and requirements a tax officer must meet prior to being appointed and must meet for continuing appointment.

Amend Sec. 23 (Sec. 509), page 89, line 6, by striking out "bond at" and inserting:

amount of the bond in an amount equal to the maximum amount of taxes that may be in the possession of the tax officer at any given time or

Amend Sec. 23 (Sec. 509), page 91, line 19, by inserting after "examine": or audit

Amend Sec. 23 (Sec. 509), page 91, by inserting between lines 25 and 26:

(2) The examination or audit conducted by the tax officer and the tax officer's designated employees shall conform to the requirements set forth in 53 Pa.C.S. Ch. 84, Subch. C (relating to local taxpayers bill of rights).

Amend Sec. 23 (Sec. 509), page 91, line 26, by striking out "(2)" and inserting: (3)

Amend Sec. 23 (Sec. 509), page 92, line 2, by striking out "(3)" and inserting: (4)

Amend Sec. 23 (Sec. 509), page 94, line 28, by striking out "paragraph (3)" and inserting: subsection (h)

Amend Sec. 23 (Sec. 510), page 98, line 3, by inserting after "convicted": or pleads guilty or nolo contendere

Amend Sec. 23 (Sec. 510), page 98, line 8, by striking out "confidentiality" and inserting: the

Amend Sec. 23 (Sec. 510), page 98, line 14, by inserting after "times": or who fails to satisfy the requirements under section 506

Amend Sec. 23 (Sec. 512), page 105, line 30, by striking out "Income" and inserting: For taxable years commencing on and after January 1, 2012, income

Amend Sec. 23 (Sec. 513), page 110, line 13, by inserting after "month": following receipt

Amend Sec. 23 (Sec. 513), page 110, line 15, by inserting after "districts": prior to April 1, 2013.

Amend Sec. 23 (Sec. 513), page 110, by inserting between lines 16 and 17:

(v) Income taxes received from taxpayers and other tax collection districts on or after April 1, 2013, shall be distributed within 30 days of receipt.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on second consideration, as amended?

#### ORIE AMENDMENT A6807

Senator ORIE offered the following amendment No. A6807:

Amend Sec. 23 (Sec. 504), page 72, line 29, by inserting before "A": (a) General rule.—

Amend Sec. 23 (Sec. 504), page 72, line 30, by inserting after "class": or second class

Amend Sec. 23 (Sec. 504), page 73, by inserting between lines 19 and 20:

(b) Counties of the second class.—Each county of the second class with a population of over 1,000,000 persons, and which also contains a city of the second class, shall be divided into four tax collection districts, each to be as consistent as practicable with the general rules pertaining to municipalities and school districts contained in subsection (a).

and to be further established as follows:

(1) One district shall be comprised of a city of the second class and any municipality and school district geographically located within the boundaries of such city.

(2) The remainder of the county shall be divided into three tax collection districts of relatively equal population which contain coterminous municipalities and school districts that are bordered by the county boundaries and by commercially navigable rivers which are at least 100 miles in length.

(3) The department shall develop a map and a list of all tax collection districts in each county of the second class and the political subdivisions in each tax collection district. By January 16, 2009, the list shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin and by January 28, 2009, the list shall be made available on the department's Internet website.

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

#### LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Tartaglione has returned, and her temporary Capitol leave is cancelled.

And the question recurring,  
Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orie.

Senator ORIE. Madam President, I offer this amendment which, I believe, will make the consolidation more workable and successful in Allegheny County, which is my home region. Allegheny County, one of the most highly populous counties in this State, has the unfortunate distinction of having the most fragmented governmental structures of any metropolitan county in the United States. The county has 130 municipalities, 43 school districts, as well as a number of public authorities.

This amendment, Madam President, would take Allegheny County from 25 separate earned income tax districts down to 4, a considerable reduction and simplification for employers. Each of the four districts, Madam President, would be roughly comparable in population, with 320,000 in each district. These four individual districts would each be larger than a large majority of the other county tax collection districts created by Senate Bill No. 1063. Only eight counties would have larger tax collection districts based on population. The four districts in Allegheny County would be formed around natural and distinct geographic boundaries of the river, as well as county boundaries in the city of Pittsburgh.

Madam President, it is important to note that nothing would prevent any of these four proposed earned income tax collection districts from joining with other districts from Allegheny County or with the tax collection district of another county.

Madam President, I offer this amendment and ask for its unanimous adoption.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

#### YEA-43

Armstrong	Fumo	Orie	Tartaglione
Baker	Gordner	Piccola	Tomlinson
Boscola	Greenleaf	Pileggi	Vance
Browne	Hughes	Pippy	Waugh
Brubaker	Kitchen	Punt	White, Donald
Corman	LaValle	Rafferty	White, Mary Jo
Costa	Madigan	Regola	Williams, Anthony H.
Dinniman	McIlhinney	Rhoades	Williams, Constance
Earll	Mellow	Robbins	Wonderling
Erickson	Musto	Scarnati	Wozniak
Ferlo	O'Pake	Stack	

#### NAY-6

Eichelberger	Fontana	Logan	Stout
Folmer	Kasunic		

A majority of the Senators having voted "aye," the question was determined in the affirmative.

And the question recurring,  
Will the Senate agree to the bill on second consideration, as amended?

#### WOZNIAK AMENDMENT A6812 OFFERED

Senator WOZNIAK offered the following amendment No. A6812:

Amend Title, page 1, lines 29 through 31; page 2, lines 1 through 14, by striking out "IN LOCAL TAX, FURTHER" in line 29 and all of lines 30 and 31, page 1 and all of lines 1 through 14, page 2 and inserting: further providing for register for earned income and local services taxes, for collection of taxes, for audits and for earned income taxes.

Amend Bill, page 2, lines 17 through 36; pages 3 through 35, lines 1 through 30; page 36, lines 1 through 20, by striking out all of said lines on said pages and inserting:

Section 1. Section 9 of the act of December 31, 1965 (P.L. 1257, No. 511), known as The Local Tax Enabling Act, amended June 21, 2007 (P.L. 13, No. 7), is amended to read:

Section 9. Register for [Earned Income] and Withholding of Local Services Taxes.—It shall be the duty of the Department of Community and Economic Development to have available an official continuing register supplemented annually of all [earned income and] local services taxes levied under authority of this act. The register and its supplements, hereinafter referred to as the register, shall list such jurisdictions levying [earned income and] local services taxes, the rate of the tax as stated in the tax levying ordinance or resolution, and the effective rate on resident and nonresident taxpayers, if different from the stated rate because of a coterminous levy, the name and address of the officer responsible for administering the collection of the tax and from whom information, forms for reporting and copies of rules and regulations are available. With each jurisdiction listed, all jurisdictions making coterminous levies shall also be noted and their tax rates shown.

Information for the register shall be furnished by the secretary of each taxing body to the Department of Community and Economic Development in such manner and on such forms as the Department of Community and Economic Development may prescribe. The information must be received by the Department of Community and Economic Development by certified mail not later than May 31 of each year to show new tax enactments, repeals and changes. Failure to comply with this date for filing may result in the omission of the levy from the register for that year. Failure of the Department of Community and Economic Development to receive information of taxes continued without change may be construed by the department to mean that the information contained in the previous register remains in force.

The Department of Community and Economic Development shall

have the register with such annual supplements as may be required by new tax enactments, repeals or changes available upon request not later than July 1 of each year. The effective period for each register shall be from July 1 of the year in which it is issued to June 30 of the following year.

Employers shall not be required by any local ordinance to withhold from the wages, salaries, commissions or other compensation of their employees any tax imposed under the provisions of this act, which is not listed in the register, or make reports of wages, salaries, commissions or other compensation in connection with taxes not so listed: Provided, That if the register is not available by July 1, the register of the previous year shall continue temporarily in effect for an additional period not to exceed one year. The provisions of this section shall not affect the liability of any taxpayer for taxes lawfully imposed under this act.

Ordinances or resolutions imposing [earned income or] local services taxes under authority of this act may contain provisions requiring employers doing business within the jurisdiction of the political subdivision imposing the tax to withhold the tax from the compensation of those of their employees who are subject to the tax: Provided, That [no employer shall be held liable for failure to withhold earned income taxes or for the payment of such withheld tax money to a political subdivision other than the political subdivision entitled to receive such money if such failure to withhold or such incorrect transmittal of withheld taxes arises from incorrect information as to the employee's place of residence submitted by the employee: And provided further, That] no employer shall be held liable for failure to withhold the local services tax or for the payment of the withheld tax money to a political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed: And provided further, That an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of section 2(e) and (f)(9) and remits the amount so withheld in accordance with this section: And provided further, That the local services tax shall be applicable to employment in the period beginning January 1, of the current year and ending December 31 of the current year, except that taxes imposed for the first time shall become effective from January 1 of the year specified in the ordinance or resolution, and the tax shall continue in force on a calendar year basis: And provided further, That employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

Section 1.1. Section 10 of the act, amended November 30, 2004 (P.L.1520, No.192) and December 1, 2004 (P.L.1729, No. 222), is amended to read:

Section 10. Collection of Taxes.—(a) Administrative Personnel; Joint Agreements.—[Except as provided in subsections (b) and (c), any] Any such political subdivision is hereby authorized to provide by ordinance or resolution for the creation or designation of such bureaus or the appointment and compensation of such officers, clerks, collectors, private agencies or other person and other assistants and employees, either under existing departments, or otherwise as may be deemed necessary, for the assessment and collection of taxes imposed under authority of this act, except earned income and net profits taxes which shall be collected under section 13. Each ordinance or resolution under this section authorizing a person, public employee or private agency to act in the capacity and with the authority of a tax collector shall continue in force without annual reauthorization unless otherwise repealed or revoked by the political subdivision.

[Except as provided in subsections (b) and (c), any] Any political subdivisions imposing taxes under authority of this act are authorized to make joint agreements for the collection of such taxes or any of them. The same person or agency may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this act.

[(b) Single Collector for Earned Income Taxes When Certain School Districts Impose Such Taxes.— Except as provided in subsection (c), whenever a school district of the second, third or fourth class shall be established pursuant to section 296, act of March 10, 1949 (P.L.30), known as the "Public School Code of 1949," added August 8, 1963 (P.L. 564), and such school district shall levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned

income, such school district and all cities, boroughs, towns and townships within its geographical limits which levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned income, may on January 1, 1967, or as soon thereafter as the school district shall provide for the levying, assessment and collection of taxes upon earned income, select one person or agency to collect the taxes upon earned income imposed by all such political subdivisions. In selecting such person or agency, each political subdivision shall share in the selection upon a basis agreed upon by each political subdivision, or in the absence of any agreement on the basis of voting according to the proportion that the population of each bears to the entire population of the combined collection district, according to the latest official Federal census, and the majority of such votes cast shall determine the person or agency selected to collect the taxes. The provisions of this paragraph shall not prohibit school districts and other political subdivisions which levy, assess and collect or provide for the levying, assessment and collection of taxes upon earned income, under authority of this act, from selecting the same person or agency to collect such tax upon earned income in an area larger than the geographical limits of a school district established pursuant to section 296 of the "Public School Code of 1949."

(c) Single Tax Collector in Certain Home Rule Municipality.—In a municipality having a population under the 2000 Federal decennial census of at least forty thousand and less than ninety thousand located in a second class county and which municipality has adopted a home rule charter under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), the person or persons appointed by the board of school directors for the school district in which the municipality is located as collector or collectors of taxes levied by the school district under this act shall also serve as the collector or collectors of taxes levied by the municipality under this act.]

Section 2. Section 11 of the act is repealed:

Amend Bill, page 37, lines 15 through 30; page 38, lines 1 and 2, by striking out all of said lines on said pages and inserting:

Section 3. Section 13 of the act, amended October 4, 1978 (P.L.930, No.177), July 9, 1987 (P.L.203, No.30), December 9, 2002 (P.L.1364, No. 166), April 5, 2004 (P.L.208, No.24) and November 30, 2004 (P.L.1520, No.192), is amended to read:

Amend Sec. 17 (Sec. 13), page 38, line 3, by striking out the bracket before "Section"

Amend Sec. 17 (Sec. 13), page 39, line 16, by inserting a bracket before "Person"

Amend Sec. 17 (Sec. 13), page 39, line 18, by inserting after "profits.": ] The Department of Revenue of the Commonwealth.

Amend Sec. 17 (Sec. 13), page 44, line 6, by inserting a bracket before "(a)"

Amend Sec. 17 (Sec. 13), page 50, line 29, by inserting a bracket after "substituted."

Amend Sec. 17 (Sec. 13), page 50, by inserting between lines 29 and 30:

(a) Income taxes shall be withheld, remitted and reported as follows:

(1) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the tax officer the name and address of the employer and such other information as the department may require.

(2) An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. Upon request, certificate of residency forms shall be provided by the department. The certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.

(3) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such



place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under Division VI.

(4) Except as set forth in paragraph (5), within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivisions imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the department.

(5) (Reserved).

(6) Any employer who for two of the preceding four quarterly periods has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by paragraph (3) to the tax officer, may be required by the tax officer to file returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the income tax was withheld.

(7) On or before February 28 of the succeeding year, every employer shall file with the tax officer:

(i) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax officer and any other information prescribed by the department.

(ii) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer and any other information required by the department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.

(8) Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this section and pay the income tax due.

(9) Except as otherwise provided in Division VI, an employer who willfully or negligently fails or omits to make the deductions required by this subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declarations and returns.

(b) (Reserved).

#### V. Powers and Duties of Income Tax Officer

(a) In addition to any other power and duty conferred upon the Department of Revenue pursuant to law, it shall be the duty of the Department of Revenue:

(1) To collect, reconcile, administer and enforce income taxes imposed on residents and nonresidents of each political subdivision.

(2) To receive and distribute income taxes and to enforce withholding by employers located in this Commonwealth.

(3) (Reserved).

(4) To distribute income taxes to political subdivisions as required under Division VII.

(5) To comply with all regulations adopted by the department under this act.

(6) To invest all income taxes in the custody of the Department of Revenue pursuant to this act in authorized investments. The Department of Revenue shall observe the standard of care that would be observed by a prudent person dealing with property of another.

(7) To distribute income generated from investments authorized

under paragraph (6) to the political subdivisions.

(b) The Department of Revenue shall, within twenty days after the end of each month, provide a written report, on forms prescribed by the Department of Revenue, to each political subdivision for which taxes were collected during the previous month. The report shall include a breakdown of all income taxes, income generated from investments under subsection (a)(6), penalties, costs and other money received, collected, expended and distributed for each political subdivision and of all money distributed to other political subdivisions.

(c) The Department of Revenue shall refund, on petition of and proof by the taxpayer, income taxes paid in excess of income taxes rightfully due in accordance with the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

(d) (Reserved).

(e) (Reserved).

(f) The following apply to employer and taxpayer audits:

(1) In order to verify the accuracy of any income tax declaration or return or, if no declaration or return was filed, to ascertain the income tax due, the Department of Revenue may examine the records pertaining to income taxes due of any of the following:

(i) An employer.

(ii) A taxpayer.

(iii) A person whom the Department of Revenue reasonably believes to be an employer or taxpayer.

(2) Every employer and taxpayer or other person whom the Department of Revenue reasonably believes to be an employer or taxpayer shall provide the means, facilities and opportunity for the examination and investigation authorized under paragraph (1).

(3) For purposes of this subsection, the term "records" shall include any books, papers, and relevant Federal or State tax returns and accompanying schedules, or supporting documentation for any income taxable under this act.

(g) In addition to the powers and duties enumerated under this section, the Department of Revenue may collect taxes levied pursuant to this act, the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the "Taxpayer Relief Act," or other statutory law.

#### VI. Tax Registers

(a) The Department of Community and Economic Development shall maintain a tax register and an official register. All of the following shall apply:

(1) The Department of Community and Economic Development shall maintain a tax register on the department's Internet website. Information for the tax register shall be furnished by each county and each political subdivision to the Department of Community and Economic Development as prescribed by the Department of Community and Economic Development. The department shall continuously update the tax register.

(2) As part of the tax register under paragraph (1), the department shall maintain an official register. The requirement to maintain an official register in accordance with this section shall supersede the requirements for an official register in any other act.

(3) The official register shall be organized by municipality and shall list:

(i) Each municipality and coterminous school district.

(ii) The effective income tax rate on taxpayers who reside in the municipality.

(iii) The effective income tax rate on taxpayers who reside in the school district.

(iv) The combined municipal and school district income tax rate on taxpayers residing in each municipality.

(v) The income tax rate on taxpayers working within the municipality.

(vi) Whether an income tax is a personal income tax levied under the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the "Taxpayer Relief Act," or any other act.

(vii) The effective emergency and municipal services tax rate on taxpayers working within the municipality.

(viii) The effective emergency and municipal services tax rate on taxpayers working within the school district.

(ix) The combined municipal and school district emergency and municipal services tax rate.

(x) The amount of any other withholding tax.

(xi) Any other information deemed necessary by the department.

(4) Each year the Department of Community and Economic Development shall update and officially release withholding tax rates on the official register on June 15 and December 15. Tax rates released on June 15 shall become effective July 1. Tax rates released on December 15 shall become effective January 1 of the following year. The Department of Revenue may revise the notification, official release and effective dates of the register for good cause. Six months prior to the revision, the department shall notify each affected political subdivision of the revision and shall publish notice of the revision in the Pennsylvania Bulletin.

(5) Information for the official register shall be furnished by each political subdivision to the Department of Community and Economic Development as prescribed by the Department of Community and Economic Development and shall include a copy of the ordinance or resolution enacting, repealing or changing the tax. The department shall be notified of changes to the official register as follows:

(i) New withholding tax enactments, repeals and changes shall be received by the Department of Community and Economic Development no later than June 1 to require withholding of a new tax, withholding at a new rate or to suspend withholding of such tax effective July 1 of that year. All new withholding tax enactments, repeals and changes received by the Department of Community and Economic Development by June 1 shall be officially released by the department June 15 and become effective July 1. Failure of the Department of Community and Economic Development to receive information by June 1 from political subdivisions regarding current withholding tax rates, new withholding tax enactments, repeals and changes shall be construed by the Department of Community and Economic Development to mean that the information contained in the previous December 15 release of the official register is still in force. Information received by the Department of Community and Economic Development after June 1 but before December 1 shall be officially released on December 15.

(ii) New withholding tax enactments, repeals and changes shall be received by the Department of Community and Economic Development no later than December 1 to require withholding of a new tax, withholding at a new rate or to suspend withholding of such tax effective January 1 of the following year. All new withholding tax enactments, repeals and changes received by the department by December 1 shall be officially released by the Department of Community and Economic Development on December 15 and become effective January 1 of the following year. Failure of the Department of Community and Economic Development to receive information by December 1 from political subdivisions regarding current withholding tax rates, new withholding tax enactments, repeals and changes shall be construed by the Department of Community and Economic Development to mean that the information contained in the previous June 15 release of the official register is still in force. Information received by the Department of Community and Economic Development after December 1 but before June 1 shall be officially released on June 15.

(6) (i) Employers shall not be required to deduct from compensation of their employees or make reports of compensation in connection with any withholding tax that is not released on the official register as of June 15 and December 15 of each year as provided in paragraphs (4) and (5), unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.

(ii) Notwithstanding any law to the contrary, no political subdivision may require any employer to deduct a withholding tax at a rate or amount that is not released on the official register, unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.

(iii) The provisions of this paragraph shall not affect the liability of any taxpayer for withholding taxes lawfully imposed under this act.

(7) An employer may withhold at the most recently available rate on the tax register even if such rate is different than the tax rate released on the official register as provided in paragraphs (4) and (5), provided that an employer shall not be required to withhold at a tax rate that is not released on the official register, unless the political subdivision imposing the tax has provided written notice to the employer of the current tax rate.

(8) No employer shall be held liable for failure to withhold an

income tax from an employee if the failure to withhold the income tax arises from incorrect information submitted by the employee as to the employee's place of residence.

(9) No employer shall be held liable for failure to withhold the emergency and municipal services tax or for the payment of tax money withheld if the failure to withhold the taxes arises from incorrect information submitted by the employee as to the employee's place of employment, the employee's principal office or where the employee is principally employed.

(b) As used in this division, notwithstanding Division I, the terms "income tax" and "withholding tax" include a tax assessed on the income of a taxpayer and levied by a municipality under the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act.

Amend Sec. 17 (Sec. 13), page 54, line 8, by striking out the bracket after "return."

Amend Sec. 17 (Sec. 13), page 54, by inserting between lines 8 and 9:

#### X. Distribution of Income Taxes

(a) Subject to subsection (b), all of the following apply:

(1) As to distribution:

(i) (Reserved).

(ii) Distribution of income taxes from the Department of Revenue shall take place within thirty days of the later of:

(A) receipt; or

(B) the deadline for payment under Division IV(a)(4).

(iii) (Reserved).

(iv) Income taxes received from taxpayers shall be distributed within sixty days of receipt.

(2) (Reserved).

(3) The Department of Revenue shall maintain a record of all income taxes distributed under this division, which shall include all of the information required in the reports under Division IV(a)(4), the date of distribution, the political subdivision to which the income taxes are distributed and any other information required by the Department of Revenue.

(4) If the Department of Revenue, within two years after receiving an income tax payment after reasonable efforts, cannot identify the political subdivision entitled to the income tax payment shall make payment to the municipality in which the income tax was collected.

(b) (Reserved).

#### XI. Audit and Evaluation

(a) Before 2013, the Auditor General shall conduct an audit and evaluation of the impact of this division and collection of local income taxes. The audit and evaluation shall:

(1) Determine the extent to which income tax revenue losses have been minimized or eliminated by the implementation of uniform collection standards and a Statewide income tax collection system.

(2) Determine whether Statewide collection and standardized withholding and remittance of local income taxes as required under Division IV has simplified the system, reduced fragmentation and reduced the burden of withholding, remitting and distributing the local income tax for employers.

(3) Determine if tax compliance is simpler, easier, fairer and less time-consuming for taxpayers.

(4) Determine whether the tax collection system under this section is more efficient than the prior system.

(5) (Reserved).

(6) (Reserved).

(7) (Reserved).

(8) Determine whether nonresident and resident taxes are being properly distributed among political subdivisions.

(9) (Reserved).

(10) (Reserved).

(11) (Reserved).

(12) (Reserved).

(13) (Reserved).

(14) Recommend needed improvements to the system.

(b) Copies of the audit findings of the Auditor General under subsection (a) shall be filed with the chair of the Finance Committee of the Senate, the chair of the Finance Committee of the House of Representatives and the department.

Amend Bill, page 54, lines 9 through 30; pages 55 through 130,

lines 1 through 30; page 131, lines 1 through 14, by striking out all of said lines on said pages and inserting:

Section 2. This act shall apply as follows:

(1) The addition of Division VI of section 13 of the act shall apply to the official register released June 15, 2008, and each year thereafter.

(2) This act shall apply to income taxes levied and collected on or after January 1, 2010.

Section 3. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Madam President, I wanted to have the amendment on the record. I am going to make a statement and then withdraw this amendment, but I would like to make a statement.

Welcome to Pennsylvania, folks. We have more local governments per capita than any other State in the Union. We have more school districts per capita than any State in the Union. We have more appointed tax collectors than the rest of the United States combined. I want to commend Senator Earll from Erie on the hard work she did on this bill to try to take us from maybe the 18th century to the 19th century, going from 580 appointed tax collectors to 66, I believe it is. What I wanted to do and the research and the task force put together made the recommendations that let us move into the 21st century and have the Commonwealth of Pennsylvania Department of Revenue collect these Act 511 taxes, just like it is done in just about every other State in the Union. But no, we live in Pennsylvania.

Everybody tells me, let us make government more efficient. Let us do things to make government make money and do it in a better way. And then we try to do it, and what happens? Boy, do we get pushed back. Heaven forbid, but it is my part-time job. Heaven forbid, we always did it this way. Heaven forbid, I know where every sparrow falls in my district, and that is why we should keep 580. Folks, the problem we have in Pennsylvania is we are impotent in trying to make decisions that take us into the 21st century. Unfortunately, I had too much push-back on this, from the administration right down to my good friends on the other side of the aisle.

As a favor, I am going to withdraw it, but what this amendment would have done is it would have said the Department of Revenue collects it, just like it collects its personal income tax, just as it does in the other States, instead of having 80 or 66 or whatever you are going down to. And interestingly enough, of course there are going to be some amendments that want to exempt counties from schedule (a)(2), and of course Philadelphia gets exempted, and I am sure there are other people who are going to try to exempt themselves out of there.

I am not done with this effort, but according to the gentleman from Erie, she has put so much work into this and is afraid if this appropriate amendment goes in, the bill will die, and instead of getting a half of a loaf, we will get no loaf.

#### AMENDMENT A6812 WITHDRAWN

Senator WOZNIAK. Folks, I am in a conundrum on this. I would like to push it forward, but I understand the political realities out there. I withdraw this amendment. I urge support of Sen-

ator Earll's bill, but I want to tell you, we did not move into the 21st century. We moved from the 17th to the 18th, maybe the 19th century, but with computers, with the technology, we have the manpower, we have the technology, we have the computers. The State can do it. Every CPA in the Commonwealth of Pennsylvania says, do it this way. The Chamber of Commerce says, do it this way. And common sense says, do it this way. But common sense in this great State of Pennsylvania goes out the window when politics comes into play. So a half of a loaf is better than no loaf. Let us go to the 19th century. Maybe 25 years from now, we will be able to get to the 21st century.

Thank you, Madam President.

The PRESIDENT. The gentleman withdraws his amendment.

The Chair recognizes the gentlewoman from Erie, Senator Earll.

Senator EARLL. Madam President, just very briefly, I would like to sincerely thank my good friend and colleague from Johnstown, Senator Wozniak. I know that he sincerely and wholeheartedly believes moving to a statewide system of collection makes the most sense, and I am sure that there are many people in this room right now who would agree with that. But as we have been negotiating this bill for over 3 years now, when we first started the process and we vetted the question of whether we could move forward that quickly to a statewide system, as we negotiated and sought input from the various stakeholders, we decided and determined that there really was not enough political support to move forward that massively this quickly and that to wrestle complete local control away would probably be a nail in the coffin to accomplishing anything.

So in an effort to at least make some systemic reform, we have agreed to move forward with a countywide collection system. I know that many people would prefer a statewide system. However, I do sincerely appreciate Senator Wozniak's ability to compromise on this issue, and maybe at some point, we will be able to revisit it in the future. Thank you.

And the question recurring,

Will the Senate agree to the bill on second consideration, as amended?

#### ROBBINS AMENDMENT A6813

Senator ROBBINS offered the following amendment No. A6813:

Amend Sec. 23 (Sec. 505), page 74, by inserting between lines 23 and 24:

(1.1) To agree to participate or opt not to participate, by resolution, in the tax collection district. The duties of tax collection under this chapter do not apply to a tax collection committee that opts not to participate in the tax collection district.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Mercer, Senator Robbins.

Senator ROBBINS. Madam President, this amendment allows the tax collection committee, once formed, to decide if they want to participate or not participate in the tax collection district. If the

tax collection committee decides not to participate in the countywide option, the local taxing districts would still have to follow all of the reforms that are outlined in Senate Bill No. 1063.

I urge a positive vote on the amendment.

The PRESIDENT. The Chair recognizes the gentlewoman from Erie, Senator Earll.

Senator EARLL. Madam President, I rise to oppose the amendment offered by Senator Robbins. We, in Senate Bill No. 1063, are attempting to bring a level of uniformity and efficiency to this very antiquated system of tax collection that we have in Pennsylvania. We are going to hear a series of amendments this afternoon that would allow for various opt-out provisions, either for the taxing committee, for municipalities, or for counties, and it is my fear that if we start granting the right to opt out, it will actually defeat the main goal of the bill, which is uniformity. Now, we are attempting, today, to bring this earned income tax collection, Act 511, into the 21st century.

The way we collect taxes now is antiquated, inefficient, and results in a lack of withholding, lost revenue, and revenue that, ultimately, does not get distributed to the venues, to the municipalities, where it belongs. Our archaic structure, allowing for municipalities as tax collectors, was devised in a day and age that is completely different from current-day reality. Back when we allowed all of the local municipalities—and again, I would remind everyone, their taxing ability is by virtue of what we have delegated to them. When we, I guess, enabled the structure that currently exists, it was in a day and age when employees predominantly worked in the municipality where they were being taxed. And it was much easier to keep track of who was being taxed, where the withholding was taking place, and where the revenues were being distributed to, but that is not the reality of the current day.

We are living in a much different day and age, and it really is very necessary to start to streamline and create efficiencies in the way we collect this tax, because ultimately, there is a lot of revenue that is not being captured, and there is a lot of revenue that is not going to the municipalities where it belongs. Again, my fear is, this afternoon, if we start allowing municipalities, counties, or even the taxing committees to opt out of the provisions that they do not want to abide by, it ultimately defeats the whole purpose of uniformity. So again, I ask for a "no" vote on this amendment.

And the question recurring,

Will the Senate agree to the amendment?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

#### YEA-11

Corman	LaValle	Regola	Tomlinson
Fontana	Logan	Rhoades	Wonderling
Greenleaf	McIlhinney	Robbins	

#### NAY-38

Armstrong	Ferlo	O'Pake	Tartaglione
Baker	Folmer	Orie	Vance

Boscola	Fumo	Piccola	Waugh
Browne	Gordner	Pileggi	White, Donald
Brubaker	Hughes	Pippy	White, Mary Jo
Costa	Kasunic	Punt	Williams, Anthony H.
Dinniman	Kitchen	Rafferty	Williams, Constance
Earll	Madigan	Scarnati	Wozniak
Eichelberger	Mellow	Stack	
Erickson	Musto	Stout	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the bill on second consideration, as amended?

#### REGOLA AMENDMENT A6625

Senator REGOLA offered the following amendment No. A6625:

Amend Title, page 1, lines 29 through 31; page 2, lines 1 through 14, by striking out all of said lines on said pages and inserting: further providing for collection of taxes, for audits of earned income taxes, for earned income taxes, for suits for tax collection, for penalties and for delinquent tax collection costs.

Amend Bill, page 2, lines 17 through 36; pages 3 through 130, lines 1 through 30; page 131, lines 1 through 14, by striking out all of said lines on said pages and inserting:

Section 1. Section 10 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended November 30, 2004 (P.L.1520, No.192) and December 1, 2004 (P.L.1729, No.222), is amended to read:

Section 10. Collection of Taxes.—(a) Administrative Personnel; Joint Agreements.—Except as provided in subsections (b) and (c), [any such] a political subdivision is hereby authorized to provide by ordinance or resolution for the creation of bureaus or the designation [of such bureaus or the], appointment and compensation of [such] officers, [clerks, collectors,] public employees, private agencies or other [person and other assistants] persons, and their employees[, either under existing departments, or otherwise] as [may be deemed] necessary, for the assessment and collection of taxes imposed under authority of this act. Each ordinance or resolution under this section authorizing a person, public employe or private agency to act [in the capacity and with the authority of] as a tax collector for the political subdivision shall continue in force without annual reauthorization unless otherwise repealed or revoked by the political subdivision. A political subdivision must enter into a written contract with an officer, private agency or other person, appointed or designated to collect the earned income tax.

Except as provided in subsections (b) and (c), any political subdivisions imposing taxes under authority of this act are authorized to make joint agreements for the collection of such taxes or any of them. The same person or agency may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this act.

(b) Single Collector for Earned Income Taxes [When Certain School Districts Impose Such Taxes] Imposed by a School District.—Except as provided in subsection (c), whenever a school district of the second, third or fourth class shall be established pursuant to section 296[.] of the act of March 10, 1949 (P.L.30), known as the "Public School Code of 1949," added August 8, 1963 (P.L. 564), and [such school district shall levy, assess and collect or provide for the levying, assessment and collection of] the school district levies a tax upon earned income, such school district and all cities, boroughs, towns and townships within its geographical limits which levy, assess and collect [or provide for the levying, assessment and collection of] a tax upon earned income[, may on January 1, 1967, or] shall as soon [thereafter] as the school district [shall provide for the levying, assessment and collection of taxes upon earned income, select one person or agency] has levied.

assessed or collected an earned income tax, designate or appoint an officer, public employe or private agency to collect the taxes upon earned income imposed by all [such] political subdivisions within the geographic limits of the school district. In [selecting such person] order to designate or appoint the officer, public employe or private agency, each political subdivision shall share in the [selection] designation or appointment upon a basis agreed upon by each political subdivision, [or in] including the school district. In the absence of any agreement [on the basis of voting] at least ninety days prior to the end of the appointment or the expiration of a contract for earned income tax collection of all political subdivisions within the school district and including the school district, the board of school directors shall convene a meeting with at least ten days' notice by first class mail. The meeting shall be convened no less than sixty days prior to the end of the appointment or the expiration of a contract for earned income tax collection of all political subdivisions. Voting shall be conducted according to the proportion that the population of each bears to the entire population of the combined collection district, according to the latest official Federal census, and the majority of such votes cast shall determine the [person or agency selected] bureau, officer, public employe or private agency designated to collect the [taxes] earned income tax. The provisions of this paragraph shall not prohibit school districts and other political subdivisions which levy, assess and collect [or provide for the levying, assessment and collection of] taxes upon earned income, under authority of this act, from [selecting] designating or appointing the same [person] officer, public employe or private agency to collect such tax upon earned income in an area larger than the geographical limits of a school district established pursuant to section 296 of the "Public School Code of 1949."

(c) Single Tax Collector in Certain Home Rule Municipality.—In a municipality having a population under the 2000 Federal decennial census of at least forty thousand and less than ninety thousand located in a second class county which municipality has adopted a home rule charter under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), the person or persons appointed by the board of school directors for the school district in which the municipality is located as collector or collectors of taxes levied by the school district under this act shall also serve as the collector or collectors of taxes levied by the municipality under this act.

(d) Records.—

(1) All tax collection records shall be a property of the political subdivision in which the taxes were collected. The political subdivision or its tax collector shall retain all records for at least seven years. Unclaimed tax records shall be retained for fifteen years.

(2) This subsection shall not be construed to preclude a tax collector from retaining copies of tax collection records.

Section 2. Section 11 of the act is amended to read:

Section 11. Audits of Earned Income Taxes.—Except in cities of the second class, [the governing body of] each political subdivision which levies, assesses and collects [or provides for the levying, assessment and collection of] a tax upon earned income, shall provide for not less than one examination each year of the books, accounts, financial statements, compliance reports and records of the income tax collector, by a certified public accountant, a firm of certified public accountants, a competent independent public accountant, or a firm of independent public accountants appointed by the [governing body] political subdivision. Whenever one person or agency is selected to collect earned income taxes for more than one political subdivision, the books, accounts and records of such person or agency shall be examined as provided above in the case of a tax collector for each political subdivision, except that the accountant shall be selected in the manner provided for selection of one person or agency to collect earned income taxes for the school district established under section 296 of the "Public School Code of 1949," and the cities, boroughs, towns and townships within the geographical limits of such school district. The examination shall be conducted according to generally accepted governmental auditing standards and shall include a financial statement, a report on the income tax officer's compliance with this act, a list of any findings of noncompliance with this act and a copy of a management letter if one is issued by the auditor. The reports of the audit shall be sent to the governing body [or bodies] of the political subdivision [or political subdivisions] employing the accountant. If there are findings of noncompliance, a copy of the

report shall be filed with the Office of Attorney General and the Department of Community and Economic Development. No further or additional audit shall be performed by elected or appointed auditors.

Section 3. Division I, Subdivision A of Division III, Division IV and Division V of section 13 of the act, amended October 4, 1978 (P.L.930, No.177), December 9, 2002 (P.L.1364, No.166), April 5, 2004 (P.L.208, No.24), and November 30, 2004 (P.L.1520, No.192), are amended and the section is amended by adding a division to read:

Section 13. Earned Income Taxes.—On and after the effective date of this act the remaining provisions of this section shall be included in or construed to be a part of each tax levied and assessed upon earned income by [any] a political subdivision [levying and assessing such tax pursuant to this act]. The definitions contained in this section shall be exclusive for any tax upon earned income and net profits levied and assessed pursuant to this act, and shall not be altered or changed by [any] a political subdivision [levying and assessing such tax].

I. Definitions

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

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

"Corporation." A corporation [or], joint stock association or limited liability company organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

"Current year." The calendar year for which the tax is levied.

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

"Domicile." The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

"Earned income." Compensation as determined under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax), not including, however, wages or compensation paid to individuals on active military service. Employe business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971." The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. In determining earned income, the taxpayer may not offset business losses.

"Income tax officer or officer." [Person] A bureau, person, public employe or private agency designated by [governing body] a political subdivision to collect and administer the tax on earned income and net profits authorized under this act.

"Employer." A person, partnership, association, business, corporation, limited liability company, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

"Net profits." The net income from the operation of a business, profession, or other activity, except corporations, determined under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). In determining net profits, the taxpayer may offset business losses from one business, profession or activity against profits from another business, profession or activity. The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

(1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;

(2) any gain on the sale of farm machinery;  
 (3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and  
 (4) any gain on the sale of other capital assets of the farm.  
"Nonresident." A person, partnership, association, business, corporation, limited liability company or any other entity domiciled outside the taxing district.

"Person or individual." A natural person.

"Political subdivision." A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class, township of the second class, school district of the second class, school district of the third class or school district of the fourth class.

"Preceding year." The calendar year before the current year.

"Private agency." Any person, partnership, association, business corporation or limited liability company, engaged in the business of collecting or administering a tax under this act.

"Resident." A person, partnership, association or any other entity domiciled in the taxing district.

"Succeeding year." The calendar year following the current year.

"Taxpayer." A person, partnership, association[,] or any other entity, required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

"Tax records." Tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents obtained or created by the officer to implement the collection of a tax under this act. The officer may submit computerized summaries of tax returns and other documents in lieu of the actual documents.

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### III. Declaration and Payment of Tax

#### A. Net Profits.

(1) Every taxpayer making net profits shall, as the [governing body] political subdivision elects, (i) pay to the officer an annual payment of tax due on or before April 15[,] of the succeeding year for the period beginning January 1[,] and ending December 31[,] of the current year, or (ii) on or before April 15[,] of the current year, make and file with the officer on a form prescribed [or approved by the officer] by the department, a declaration of his estimated net profits during the period beginning January 1[,] and ending December 31[,] of the current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15[,] of the current year, September 15[,] of the current year, and January 15[,] of the succeeding year, respectively.

(2) Where the [governing body] political subdivision elects to require the filing of a declaration and quarterly payments, any taxpayer who first anticipates any net profit after April 15[,] of the current year, shall make and file the declaration hereinabove required on or before June 15[,] of the current year, September 15[,] of the current year, or December 31[,] of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

(3) Where the [governing body] political subdivision requires a declaration of estimated net profits and quarterly payments of tax due on such profits, every taxpayer shall, on or before April 15[,] of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1[,] of the current year, and ending December 31[,] of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.

Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31, of the succeeding year, the final return as hereinabove required.

(4) [The officer may be authorized to provide by regulation for the making and filing of] The department may adopt a regulation authorizing the officer to make and file adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a tax-

payer who has filed [the declaration hereinabove required] under paragraph (1), (2) or (3) anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

(5) Every taxpayer who discontinues business prior to December 31[,] of the current year[,] shall, within thirty days after the discontinuance of business, file his final return as [hereinabove] required under this division and pay the tax due.

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### IV. Collection at Source

(a) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen days after becoming an employer, register with the officer his name and address and such other information as the officer may require.

(b) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by ordinance or resolution on the earned income due to his employee or employees, and shall, on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively. Such return unless otherwise agreed upon between the officer and employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding three-month period, and the total tax deducted therefrom and paid with the return.

Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

(c) On or before February 28, of the succeeding year, every employer shall file with the officer:

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

(2) A return withholding statement for each employee employed during all or any part of the period beginning January 1, of the current year, and ending December 31, of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, [the political subdivisions imposing the tax upon such employee,] each political subdivision to which the withheld tax is remitted and the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

(d) Every employer who discontinues business prior to December 31, of the current year, shall, within thirty days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

(e) Except as otherwise provided in section 9, every employer who wilfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

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



#### V. Powers and Duties of Officer

(a) It shall be the duty of the income tax officer to collect and receive [the] resident and nonresident taxes, fines and penalties imposed by the ordinance or resolution. It shall also be [his duty] the duty of the officer to keep a record showing the amount received [by him] from each person or business paying the tax and the date of such receipt.

(b) Each officer, before entering upon his official duties shall give and acknowledge a bond to the political subdivision [or political subdivisions] appointing him. If such political subdivision [or political subdivisions] shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of the subsection. The bond shall be renewed annually.

Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.

Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor [or successors] in office of all books, papers, documents or other official things held in right of his office.

Each such bond shall be taken in the name of the appointing authority [or authorities], and shall be for the use of the political subdivision [or political subdivisions] appointing the officer, and for the use of such other person [or persons] for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

The political subdivision [or political subdivisions] appointing the officer, or any person may sue upon the [said] bond in its or his own name for its or his own use.

Each such bond shall contain the name [or names] of the surety company [or companies] bound thereon. The political subdivision [or political subdivisions] appointing the officer shall fix the amount of the bond at an amount [equal to the maximum amount of taxes which may be in the possession] sufficient to secure the financial responsibility of the officer [at any given time.] in accordance with guidelines relating to the amount of the bond adopted by the department. Copies of the bond shall be filed with the political subdivision appointing the officer.

The political subdivision [or political subdivisions] appointing the officer may, at any time, upon cause shown and due notice to the officer, and his surety [or sureties], require or allow the substitution or the addition of a surety company acceptable to such political subdivision [or political subdivisions] for the purpose of making the bond sufficient in amount, without releasing the surety [or sureties] first approved from any accrued liability or previous action on such bond.

The political subdivision [or political subdivisions] appointing the officer shall designate the custodian of the bond required to be given by the officer. A copy of the bond shall be made available upon request to a political subdivision, or the officer collector appointed by the political subdivision, seeking payment or distribution of a tax authorized by this act.

(b.1) The department shall promulgate regulations relating to the administration, collection, enforcement, removal of officers from office and appeal process under this act. The regulations shall include required forms, including a certificate of residency form, returns and declarations.

(c) The officer charged with the administration and enforcement of the [provisions of the] ordinance or resolution [is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the ordinance or resolution, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the ordinance or resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the

governing body. A copy of such rules and regulations currently in force shall be available for public inspection.] shall comply with all regulations adopted by the department under this act. The officer may use rules and regulations previously adopted by the officer or the political subdivision in accordance with this act until the adoption of regulations by the department.

(c.1) An officer shall make refunds for overpayment of taxes under this act for a period not to exceed three years subsequent to the date of payment.

(d) The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.

(e) The officer and agents designated by him are hereby authorized to examine the books, papers, and records of any employer [or of any taxpayer or of any], taxpayer or other person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer [and every taxpayer and every person], taxpayer or other person whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by [him] the officer, the means, facilities and opportunity for such examination and investigations[, as are hereby] authorized under this act.

(f) Any information gained by the officer, his agents, or by any other official or agent of the [taxing district] political subdivision, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ordinance or resolution, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

(g) The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(h) The officer shall distribute earned income taxes to the appropriate political subdivisions within sixty days of the deadline for payment by an employer as set forth in Division IV(b). [The political subdivisions] A political subdivision shall not be required to request the officer to distribute the funds collected but shall at least annually reconcile their receipts with the records of the officer and return to or credit the officer with any overpayment. A political subdivision shall not be required to pay a fee or commission to the other political subdivision or its tax officer for tax revenue distributed under this subsection. If the officer, within one year after receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the municipality in which the tax was collected. If earned income taxes are not distributed to the appropriate political subdivision within one year of receipt, the political subdivision may make a written demand on a tax officer or political subdivision for tax revenues collected and attributable to residents of the political subdivision making the demand. If the taxes attributable to the residents of the political subdivision making the demand are not paid within thirty days from the date of the demand, the political subdivision, person, public employee or private agency designated by the political subdivision may enter into an arbitration agreement with the officer under 42 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration) or bring an action in [an appropriate] the court of common pleas where the officer is a resident or where the political subdivision is located in the name of the taxing district for the recovery of taxes not distributed in accordance with this subsection. The action must be brought within seven years of the collection of the taxes.

(i) The officer shall, on or before the tenth day of each month, provide a written report, on a form adopted by the department, to the appropriate official of each political subdivision for which taxes were collected during the previous month and to the department. The report shall include the names of taxpayers and employers, the date of collection, penalties and interest on collections, costs of collection, amounts owed to other political subdivisions, refunds, recoveries and overpayments.

(j) An income tax officer shall file an annual report with the political subdivision and the department. The report shall include all tax collection information for the most recently completed tax year as required by the department. The report shall be filed by June 15 of the year following the close of the reporting year.

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X. Fines and Penalties Against Income Tax Officers

(a) A political subdivision which brings an action under Division V(h) may seek equitable relief, including an accounting of all undistributed taxes and monetary damages in the form of recovery of the taxes not previously distributed plus interest calculated from the date that the taxes should have been distributed. In addition, the court may impose a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each tax quarter for which taxes were not distributed in accordance with Division V(h), plus reasonable costs and attorney fees. If an officer fails to distribute earned income taxes to the appropriate political subdivision as required under Division V(h), for four consecutive tax quarters, the court may impose a civil penalty not to exceed five thousand dollars (\$5,000).

(b) If an officer fails to submit the report required under Division V(i) or (j), a political subdivision entitled to receive the report may bring an action in the court of common pleas of that political subdivision and the court may impose a penalty of twenty dollars (\$20) a day for each day that the report is overdue, not to exceed five hundred dollars (\$500). If a report submitted under Division V(i) includes any findings of noncompliance, the officer is responsible for a civil penalty of not less than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500).

(c) An officer who violates any other provision of this act shall be subject to a civil penalty of up to two thousand five hundred dollars (\$2,500) for each violation.

(d) An action against an officer for a violation of this act may be brought by a political subdivision in which the officer collects taxes, a political subdivision owed taxes by the officer, by a surety or by the department.

(e) A political subdivision shall remove or rescind the appointment of an income tax official who has been penalized under subsection (c) more than three times.

Section 4. Section 21 of the act, amended November 30, 2004 (P.L.1520, No.192), is amended to read:

Section 21. Collection of Taxes by Suit.—Each [taxing district or person,] political subdivision, bureau, officer, public employee [or], private agency or other person designated by the taxing district shall have power to collect unpaid taxes from the persons owing such taxes by suit in assumpsit or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law. The right of each [such taxing district] political subdivision to collect unpaid taxes under [the provisions of] this section shall not be affected by the fact that such taxes have been entered as liens in the office of the prothonotary, or the fact that the property against which they were levied has been returned to the county commissioners for taxes for prior years.

Section 5. Section 22 of the act is amended to read:

Section 22. Penalties.—Except as otherwise provided in the case of any tax levied and assessed upon earned income, any such political subdivision shall have power to prescribe and enforce reasonable penalties for the nonpayment, within the time fixed for their payment, of taxes imposed under authority of this act and for the violations of the provisions of ordinances or resolutions passed under authority of this act.

If for any reason any tax levied and assessed upon earned income by any such political subdivision is not paid when due, interest at the rate of six percent per annum on the amount of said tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax or, if more than twenty-five percent of the amount reported is underreported, an additional penalty of twenty-five percent of the amount of the unreported tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. When suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

Section 6. Section 22.1 of the act, amended June 21, 2007 (P.L.13, No.7), is amended to read:

Section 22.1. Costs of Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and Earned Income Taxes.—(a) A person, public employee or private agency designated by [a governing body of] a political subdi-

vision to collect and administer a [per capita, occupation, occupational privilege, emergency and municipal services, local services or earned income] tax under this act may impose and collect the reasonable costs incurred to provide notices of delinquency or to implement [similar] other procedures utilized to collect delinquent taxes from a taxpayer as approved by [the governing body of] the political subdivision. Reasonable costs collected may be retained by the officer person, public employee or private agency designated to collect the tax as agreed to by [the governing body of] the political subdivision. An itemized accounting of all costs collected shall be remitted to the political subdivision on an annual basis.

(b) Costs related to the collection of unpaid per capita, occupation, occupational privilege, emergency and municipal services or local services taxes may only be assessed, levied and collected for five years from the last day of the calendar year in which the tax was due.

(c) A delinquent taxpayer may not bring an action for reimbursement, refund or elimination of reasonable costs of collection assessed or imposed prior to the effective date of this section. Additional costs may not be assessed on delinquent taxes collected prior to the effective date of this section.

Section 7. This act shall take effect in 60 days.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Regola.

Senator REGOLA. Madam President, this amendment mirrors House Bill No. 1458, which would consolidate the collection of the EIT at the school district level rather than the county level in Senate Bill No. 1063. My amendment contains all the other major reforms in Senate Bill No. 1063, including uniform tax forms and uniform rules across the State. We need reform. We can all agree on that. However, my major concern about countywide collection and consolidation is that it seeks to consolidate without any real reason.

Everyone I have spoken with agrees that we can accomplish the same reforms at the school district level without creating a whole new bureaucracy at the county level. Oftentimes, it is the unintended consequences that get overlooked as legislation is rushed through the process. My biggest fear with countywide consolidation is that it will eliminate competition in terms of the agencies that collect the taxes. If we are going to consolidate at the countywide or even at the statewide level, which the Governor wants, let us not kid ourselves, this action will put companies out of business and leave counties with only one person or possibly two options when it comes to selecting whom they will contract with to collect the tax.

As a former chairman of the Hempfield Township Board of Supervisors, I saw firsthand the need for competition. We were able to compare what different companies offered, and we achieved real savings when selecting a new company. Countywide collection will indeed put companies out of business. If we are looking to reform the collection system, my amendment will do that without having to create a whole new bureaucracy. I rise today and ask my colleagues for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Madam President, I rise to oppose this amendment. We are going from 580 and, under this legislation, down to 501. That does not amount to a hill of beans. It is not



competition; it is politics. As I said earlier, the best way to do this is to have it statewide. But we already said why we cannot do it. Let us go along with Senator Earll's language and at least get down to something that is workable countywide.

I oppose this amendment. If we are going to try to do something, like I said, let us move out of the 17th century. Let us at least get to the 19th. This just takes us to 1788 or 1810.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Erie, Senator Earll.

Senator EARLL. Madam President, I, too, rise to oppose the amendment. Those who suggest that a school-district-wide consolidation would create the same efficiency as a countywide consolidation are really just blatantly mistaken. Changing the collection districts to school districts would still require employers to collect on behalf of 501 school districts. The school districts would still have to choose a collector, and it may not result in the 200-plus districts that the maker of the amendment suggests that it would, and it ultimately could still result in having 500 collection districts. There would still be a burden on the employers, who would have to remit to, potentially, 500 districts, and it is obviously far more efficient to move to countywide districts, where employers will remit to 66 different counties.

I have to take issue with the suggestion that somehow this legislation has been rushed through the process. Nothing could be further from the truth. This concept of consolidating earned income tax collectors was first vetted back when Governor Ridge was Governor some 7 years ago. This administration, the current administration, really picked up the ball and ran with the results and recommendations of the studies that had been done 7 years ago. And this current bill, Senate Bill No. 1063, has been under the microscope for some 3 years. We have painstakingly met with all of the stakeholders involved in this process from the business groups, the employer advocacy groups, the Pennsylvania School Boards Association, the Pennsylvania Association of Township Supervisors, the Pennsylvania Association of Boroughs, and PICPA. We have negotiated with all of the stakeholders. We have sought input. This has been a very thorough, public process that has been debated publicly, and we have even conducted public hearings. So I really have to take issue with the statement that this is being rushed through without a lot of thought. It really has been thoroughly, thoroughly vetted.

So with that, again, I ask for a "no" vote on the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Regola.

Senator REGOLA. Madam President, when it comes to—I believe Pennsylvania has 2,565 municipalities. Natural consolidation has already taken place. We have approximately 580 tax collectors at local points. If we go to school-district-wide, the argument could be made that we are only going to 501. I would respectively disagree with that. We are probably going to end up somewhere in the mid-100s, just due to, A, the reforms that are being put in place; and, B, just the way it is currently being collected. There are several counties already collecting. There are several municipalities working off of a COG. So to say we are going to go from 580 to 501 is not true. We are going to end up somewhere in the mid-100s, possibly 200. We heard the words "uniformity" and "consistency." If I recall, the word "uniform"

was brought up under the Uniform Construction Code, and it is anything but uniform, and we are revisiting that issue as we speak today.

I once again ask my colleagues for an affirmative vote.

And the question recurring,

Will the Senate agree to the amendment?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

#### YEA-8

Corman Folmer	LaValle McIlhinney	Pippy Regola	Robbins Tomlinson
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#### NAY-41

Armstrong	Fontana	O'Pake	Vance
Baker	Fumo	Orie	Waugh
Boscola	Gordner	Piccola	White, Donald
Browne	Greenleaf	Pileggi	White, Mary Jo
Brubaker	Hughes	Punt	Williams, Anthony H.
Costa	Kasunic	Rafferty	Williams, Constance
Dinniman	Kitchen	Rhoades	Wonderling
Earll	Logan	Scarnati	Wozniak
Eichelberger	Madigan	Stack	
Erickson	Mellow	Stout	
Ferlo	Musto	Tartaglione	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the bill on second consideration, as amended?

#### REGOLA AMENDMENT A6629

Senator REGOLA offered the following amendment No. A6629:

Amend Sec. 23 (Sec. 504), page 72, line 30, by inserting after "first": second or third

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Regola.

Senator REGOLA. Madam President, I will be very brief, but currently, Senate Bill No. 1063 opts out first-class counties, Philadelphia, from the legislation. This amendment would opt out second- and third-class counties from the requirements of the legislation.

I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentlewoman from Erie, Senator Earll.

Senator EARLL. Madam President, I rise to ask for a "no" vote on this amendment as well. First of all, Senate Bill No. 1063 does not opt out Philadelphia. Philadelphia does not come under Act 511. It is a Sterling Act city, not an Act 511 city, so it is not

referenced specifically in Senate Bill No. 1063 at all. So I do not think that is adequate justification to allow other municipalities and/or counties to opt out of the mandates of Senate Bill No. 1063.

As I said before, the main goal of consolidating our earned income tax collection system to a countywide system is to create efficiency and uniformity that will ultimately result in capturing revenue that is now seeping through the system, is not being collected, or is not being distributed to the venues where it belongs. Again, if we allow opt-out provisions, I am fearful that it will destroy the whole end game of uniformity.

Secondly, or thirdly, I would point out that counties and municipalities have the option right now to consolidate, and thus far, few of them have really chosen to go that route. So to suggest that we should allow them to do what they have been able to do all along and have failed to do, I think, does not justify this amendment either. It is continually referenced that, people continually cite the fact that Pennsylvania's local earned income tax collection system is the most time-consuming and confusing of any State in the country. Our quagmire of local earned income tax collectors is unparalleled by any State in the nation, and as a matter of fact, we have more earned income tax collectors in Pennsylvania than every other State combined. It is time that we do something about this.

So again, I ask for a "no" vote on the amendment. Thank you.

And the question recurring,

Will the Senate agree to the amendment?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

#### YEA-12

Corman	Greenleaf	McIlhinney	Robbins
Dinniman	LaValle	Regola	Tomlinson
Fontana	Logan	Rhoades	Wonderling

#### NAY-37

Armstrong	Folmer	Orie	Vance
Baker	Fumo	Piccola	Waugh
Boscola	Gordner	Pileggi	White, Donald
Browne	Hughes	Pippy	White, Mary Jo
Brubaker	Kasunic	Punt	Williams, Anthony H.
Costa	Kitchen	Rafferty	Williams, Constance
Earll	Madigan	Scarnati	Wozniak
Eichelberger	Mellow	Stack	
Erickson	Musto	Stout	
Ferlo	O'Pake	Tartaglione	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the bill on second consideration, as amended?

#### McILHINNEY AMENDMENT A6820 OFFERED

Senator McILHINNEY offered the following amendment No. A6820:

Amend Sec. 23 (Sec. 504), page 73, line 1, by inserting after "taxes":

The governing body of a second class or second class A county may agree to opt not to participate, by resolution, in a tax collection district for that county.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator McIlhinney.

Senator McILHINNEY. Madam President, I have amendment No. A6820, which would allow second class and second class-A counties to opt out of the bill before us. However, seeing the futility of what is going on here today, I would just like to talk a little bit about what I see, prior to withdrawing this amendment.

In the discussion here today, we are talking about amending and changing the Local Tax Enabling Act. The Local Tax Enabling Act. That means the local municipalities that, in 1965, when we said to them, we are not going to deal with the continuing mandates we send to you, we are just going to continue to send them to you. We are not going to give you more money. We are going to allow you to figure out a way to raise your local taxes and deal with this. Well, today, we do not even like the way that they are collecting it. In my county, 90 percent of the municipalities have a single tax collector, because they chose to form that kind of arrangement. So what we are saying here today is that we do not like that. That is not good enough. The other 10 percent, you have to come into line as well.

Across the whole State, we do not like what is going on. Of course, we do not want to get involved in having to deal with the increased costs of the unfunded mandates that we continue to throw down on them, from school districts to municipalities to the roads and bridges that we force them to repair. We just do not like the way it is being collected.

And I am hearing today that we are in the 18th century, from my good friend, Senator Wozniak of Johnstown. I know it is getting late, but I am going to ask the Senate to indulge me in a quick story. It is a story about a town in Pennsylvania that was called Hope. Hope, Pennsylvania. Around 1776, the British marched out of New York City to come down to invade Pennsylvania to capture Philadelphia. When they came down through New Jersey, they came looking for a river crossing. They could not find out where to go. There was the town of Hope, and in the middle of the town of Hope there was a ferry, a ferry run by the Hope family.

They sent their scouts across the water, and they said to the Hope family, send your ferry across so that we can bring our army to bear on the Pennsylvania side. There were no bridges back then. And they said, if you do not do it, we are going to shell your town. Well, not only did the Hope family not send the ferry across, but they sent word to George Washington. They sent word out, we are blocking them here, send your troops over. And our troops--the American colonists, the Revolutionaries, our Founding Fathers--lined up our side of the river to keep the British from coming over.

Well, the British did shell the town. They burned down 90 percent of that town. The British did not invade that year. Philadelphia was saved that year. The Revolution continued that year.

What happened in that town next was that the residents from the surrounding districts, from Plumstead, Buckingham Township, Upper Makefield Township, came together, they found the money, and they rebuilt that town. They rebuilt that town, and they renamed it. It is called New Hope. New Hope, Pennsylvania. You might have heard of it.

If you walk through New Hope, Pennsylvania, today, you can walk into a real estate office, and you can walk up to the attic of the real estate office, and in the attic is a cannon ball that was lodged over 200 years ago in that fight. What I am saying today here, Madam President, is that our towns have been finding ways to fund and rebuild and conduct their business since before we were a country. But today, we know better. We need to bring them into the 20th century. We need to tell them that their ability to actually form their own decisions and form their own countywide tax collection agency is not good enough, because you only got to 90 percent. Only 90 percent of you got together to do it.

Today, we know what is best for them, but we are still not dealing with all of the other mandates and the tax collection and the school problems that we have here. We are worrying about other people's problems. We are now worrying about our local municipalities' problems instead of our problems in the State. So I commend my colleagues who have been here trying to make some sort of a say for the local municipalities, the local form of government. Obviously, it is not going to pass here today, and it is a sad day when we have to go through spending more time on other people's problems than our own problems. I am going to oppose this bill in the final version and hope that, at some point, we can start paying attention to our issues instead of meddling in our local municipalities.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Madam President, I do not know if this logic extends to local preemption on a statewide smoking ban or not, because I have another Revolutionary War story.

Senator McILHINNEY. We would be happy to discuss that at another date.

#### AMENDMENT A6820 WITHDRAWN

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator McIlhinney.

Senator McILHINNEY. I am withdrawing the amendment, Madam President.

The PRESIDENT. The gentleman withdraws his amendment.

And the question recurring,

Will the Senate agree to the bill on second consideration, as amended?

It was agreed to.

Ordered, To be printed on the Calendar for third consideration.

#### BILL ON SECOND CONSIDERATION

**SB 1149 (Pr. No. 1973)** -- The Senate proceeded to consideration of the bill, entitled:

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

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

#### BILL OVER IN ORDER

**SB 1250** -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

#### SENATE RESOLUTION No. 263, ADOPTED

Senator PILEGGI, without objection, called up from page 3 of the Calendar, **Senate Resolution No. 263**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to conduct a study relating to the funds collected from the fee from construction or building permits and to report its findings to the General Assembly.

On the question,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

#### THIRD CONSIDERATION CALENDAR RESUMED

#### SB 820 CALLED UP

**SB 820 (Pr. No. 1925)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 1 of the Third Consideration Calendar, by Senator PILEGGI.

#### BILL AMENDED

**SB 820 (Pr. No. 1925)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 4, 1996 (P.L.911, No.147), known as the Telemarketer Registration Act, further providing for definitions and for registration requirement; and providing for unwanted automatic political calls.

On the question,

Will the Senate agree to the bill on third consideration?

Senator PILEGGI offered the following amendment No. A6815:

Amend Sec. 1 (Sec. 2), page 6, line 19, by inserting brackets before and after "ANY NONPROFIT" and inserting immediately thereafter: an

Amend Sec. 3 (Sec. 5.3), page 7, line 19, by striking out "AUTO-MATED" and inserting: automatic

Amend Sec. 3 (Sec. 5.3), page 7, line 20, by inserting after "RESIDENTIAL": or wireless

Amend Sec. 3 (Sec. 5.3), page 7, line 21, by striking out "RESIDENTIAL"

Amend Sec. 3 (Sec. 5.3), page 7, line 22, by striking out "TELEPHONE SOLICITATION CALLS" and inserting: automatic political calls

Amend Sec. 3 (Sec. 5.3), page 7, line 24, by inserting after "FOR":  
automatic

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator PILEGGI.

## EXECUTIVE NOMINATIONS

### EXECUTIVE SESSION

Motion was made by Senator ROBBINS,  
That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to by voice vote.

### NOMINATIONS TAKEN FROM THE TABLE

Senator ROBBINS. Madam President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

#### MEMBER OF THE ARCHITECTS LICENSURE BOARD

April 7, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John A. Martine, AIA, 2122 Sarah Street, Pittsburgh 15203, Allegheny County, Forty-third Senatorial District, for appointment as a member of the Architects Licensure Board, to serve until June 5, 2010, or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Jon W. Shimm, Pittsburgh, resigned.

EDWARD G. RENDELL  
Governor

#### MEMBER OF THE PENNSYLVANIA CANCER CONTROL, PREVENTION AND RESEARCH ADVISORY BOARD

March 10, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Patricia Halpin-Murphy, 1019 Ingram Court, Ambler 19002, Montgomery County, Twelfth Senatorial District, for reappointment as a member of the Pennsylvania Cancer Control, Prevention and Research Advisory Board, to serve for a term of four years and until her successor is appointed and qualified.

EDWARD G. RENDELL  
Governor

#### MEMBER OF THE STATE BOARD OF LANDSCAPE ARCHITECTS

March 26, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Douglas H. Shaps (Public Member), 158 Maple Avenue, Bala Cynwyd 19004, Montgomery County, Seventeenth Senatorial District, for appointment as a member of the State Board of Landscape Architects, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Lisa Holman, Mechanicsburg, whose term expired.

EDWARD G. RENDELL  
Governor

#### MEMBER OF THE STATE BOARD OF NURSING

March 27, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Rafaela Colon (Public Member), 1306 Germantown Avenue, Philadelphia 19122, Philadelphia County, Third Senatorial District, for appointment as a member of the State Board of Nursing, to serve until May 8, 2013, or until her successor is appointed and qualified, but not longer than six months beyond that period, vice Maryann George, Ardmore, resigned.

EDWARD G. RENDELL  
Governor

#### MEMBER OF THE BOARD OF TRUSTEES OF THE PENNSYLVANIA STATE UNIVERSITY

March 6, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Rodney P. Hughes, 214 5th Street, Mayfield 18433, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Board of Trustees of the Pennsylvania State University, to commence on July 1, 2008, and to serve until July 1, 2011, or until his successor is appointed and qualified, vice Galen T. Foulke, Bloomsburg, whose term expired.

EDWARD G. RENDELL  
Governor

#### MEMBER OF THE STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

March 27, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, James K. Matta, Sr., Ed.D., NCC, LPC, 747 McCaslin Street, Pittsburgh 15217, Allegheny County, Forty-third Senatorial District, for appointment as a member of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Thomas F. Matta, Erie, whose term expired.

EDWARD G. RENDELL  
Governor

On the question,  
Will the Senate advise and consent to the nominations?

The yeas and nays were required by Senator ROBBINS and were as follows, viz:

#### YEA-49

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Waugh
Brubaker	Hughes	Pippy	White, Donald
Corman	Kasunic	Punt	White, Mary Jo
Costa	Kitchen	Rafferty	Williams, Anthony H.
Dinniman	LaValle	Regola	Williams, Constance
Earll	Logan	Rhoades	Wonderling
Eichelberger	Madigan	Robbins	Wozniak
Erickson	McIlhinney	Scarnati	
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

#### NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.  
Ordered, That the Governor be informed accordingly.

#### EXECUTIVE SESSION RISES

Senator ROBBINS. Madam President, I move that the Executive Session do now rise.  
The motion was agreed to by voice vote.

#### UNFINISHED BUSINESS SENATE RESOLUTIONS ADOPTED

Senators TARTAGLIONE, WASHINGTON, LOGAN, FERLO, FONTANA, KASUNIC, BOSCOLA, ERICKSON, STACK, GREENLEAF, COSTA, BAKER, PUNT, RAFFERTY, WOZNIAK, KITCHEN, BRUBAKER, WAUGH, ARMSTRONG, LAVALLE, ROBBINS, CORMAN, FOLMER, C. WILLIAMS, PIPPY, REGOLA, O'PAKE, ORIE, DINNIMAN, MUSTO, PILEGGI, FUMO, WONDERLING, EARLL, A. WILLIAMS and D. WHITE, by unanimous consent, offered **Senate Resolution No. 303**, entitled:

A Resolution honoring Pennsylvania's senior citizens by designating the month of May 2008 as "Older Americans: Working Together for Strong, Healthy and Supportive Communities Month" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Tartaglione.

Senator TARTAGLIONE. Madam President, since 1963, our country has designated the month of May as a time to pay tribute to older Americans, for they are the pillars upon which American families have been built. With our increasing lifespans, we face opportunities and challenges that require us to think differently about healthcare and long-term care. We also must reexamine our current system to adequately plan for and address the needs of current and future generations.

For several years, I have been pleased to offer a resolution in the Senate to designate the month of May as "Older Americans Month" here in Pennsylvania. This year, the theme is "Older Americans: Working Together for Strong, Healthy and Supportive Communities." I am urging all the residents of this Commonwealth to honor senior citizens and persons who care for them during the month of May and throughout the year, and to promote and participate in activities to help older Americans make choices for a healthy and rewarding future.

Madam President, I ask my colleagues to support me on this resolution and declare the month of May 2008 as "Older Americans: Working Together for Strong, Healthy and Supportive Communities in Pennsylvania."

Thank you, Madam President.

And the question recurring,  
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators BOSCOLA, WONDERLING, BROWNE, MELLOW, STACK, LOGAN, KITCHEN, FONTANA, TARTAGLIONE, A. WILLIAMS, COSTA, STOUT, KASUNIC, MUSTO, LAVALLE and O'PAKE, by unanimous consent, offered **Senate Resolution No. 304**, entitled:

A Resolution congratulating C. F. Martin & Company upon the 175th anniversary of its founding, and commending it for its many positive globally conscious environmental and business practices.

Which was read, considered, and adopted by voice vote.

Senators RAFFERTY, STACK, PICCOLA, PILEGGI, ORIE, SCARNATI, ERICKSON, GREENLEAF, ARMSTRONG, O'PAKE, PUNT, COSTA, EARLL, HUGHES, MADIGAN, McILHINNEY, PIPPY, WONDERLING, BAKER, FONTANA, EICHELBERGER, TOMLINSON, WASHINGTON, A. WILLIAMS, MUSTO, C. WILLIAMS, KITCHEN, FERLO, FOLMER, FUMO, MELLOW, CORMAN, WOZNIAK, TARTAGLIONE, VANCE, GORDNER, REGOLA, D. WHITE, LAVALLE, BOSCOLA, KASUNIC, BRUBAKER, LOGAN, STOUT, DINNIMAN, M. WHITE, RHOADES, WAUGH and ROBBINS, by unanimous consent, offered **Senate Resolution No. 305**, entitled:

A Resolution recognizing the week of May 11 through 17, 2008, as "National Police Week" and May 5, 2008, as "Police Officers' Memorial Day" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Rafferty.

Senator RAFFERTY. Madam President, with my friend and colleague, Senator Stack, we offer today's resolution honoring our law enforcement officials, our police officers, all throughout the Commonwealth of Pennsylvania during National Police Week, May 11 through 17. Realistically, Madam President, we should do this every day and every week, not just 1 week. We should honor and remember our police officers for, day in and day out, putting their health, their safety, and their lives on the line to protect us, to protect our property, and to protect the laws of the Commonwealth of Pennsylvania.

During this week, each one of us in the Commonwealth of Pennsylvania should go out of our way and thank the members of the various police departments, the State Police and the local police departments, for what they do day in and day out. They have a job for which they slap on the uniform, the gun, and the badge, and they walk out the door, they say good-bye to their spouses and their children, and they do not know if they are going to come back or not. We have the general belief that we are coming back to our homes after the workday. But a police officer today, and especially in this society that we see has lost a lot of respect for authority, the police officer's job is that much more dangerous, and to those law-abiding citizens, that much more appreciated. And we should show our debt of gratitude to our police officers.

On Monday, May 5, we will celebrate "Police Officers' Memorial Day" here in Pennsylvania. Senator Stack and I will be presenting a copy of this resolution to the statewide FOP at that ceremony. We will be adding three names this year, making the total in the Commonwealth of Pennsylvania for law enforcement officials killed, since recordkeeping, more than 700.

Madam President, we will be adding the name of police officer Charles Cassidy from the Philadelphia Police Department. A 25-year veteran, Officer Cassidy succumbed to gunshot wounds sustained as he walked into a store that was robbed the day before. Checking on the store, he walked in with a robbery in progress and was shot by the defendant as he walked through the door. Police officer Cassidy, a 25-year veteran, succumbed to his wounds.

We are also honoring Philadelphia Police Officer Walter T. Barclay, Jr., who was on the job for a year and a half. He died 40 years later from gunshot wounds received when he was investigating a burglary 40 years prior. The officer was forced to retire from the police department, and in all that 40-year time was back and forth with surgery and rehabilitation for many complications he was suffering due to those gunshot wounds. He left us on August 19, 2007, and his name will be added to the wall as well. And I am happy to report that the Philadelphia DA's office is going to prosecute the defendant for murder. I was very happy in that regard.

Madam President, the third name added to the wall will be Trooper Scott Ball. He enlisted in the Pennsylvania State Police in 1999, and on August 28, 2007, Trooper Ball was killed in action in Afghanistan while serving with the Pennsylvania Na-

tional Guard. He is an American soldier and was with American and Afghan soldiers who were ambushed in the Kunar province of Afghanistan. Besides being a master sergeant in the Pennsylvania National Guard, he was a Trooper serving proudly in the Commonwealth of Pennsylvania.

Madam President, I ask all the people of this Commonwealth to join with me in a moment of silence honoring the three fallen police officers, and in their prayers to remember their families and that they may be strengthened by God's providence.

The PRESIDENT. May we all please rise for a moment of silence to Police Officer Charles Cassidy, Police Officer Walter Barclay, Jr., and Trooper Scott Ball.

(Whereupon, the Senate en bloc stood in a moment of silence in solemn respect to the memory of Police Officer CHARLES CASSIDY, Police Officer WALTER BARCLAY, Jr., and Trooper SCOTT BALL.)

Senator RAFFERTY. Thank you, Madam President. It is a fitting tribute that we will be paying on Monday and a fitting honor to give to these fallen police officers in thanksgiving and gratitude for making the ultimate sacrifice on our behalf. Thank you, Madam President, for the opportunity to address the Senate, and I know my friend and colleague, Senator Stack, would like to say a few words as well.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Stack.

Senator STACK. Madam President, I am just rising to echo the words of my friend and colleague, Senator Rafferty. We are here to recognize some of the Commonwealth's heroes, and Senator Rafferty mentioned that we want to declare May 11 through 17 as "National Police Week," and May 5 as "Police Officers' Memorial Day" in Pennsylvania.

As the Senator said, law enforcement men and women protect the public by performing a variety of duties, from a drug bust to responding to a noise disturbance call. Their valiant efforts keep our communities, neighborhoods, and homes safe. A police officer's duty is to protect and serve the public. It is a simple mantra, but it involves a tremendous amount of sacrifice. Law enforcement officers willingly sacrifice their time, their energy, and tragically, sometimes their lives to ensure that our streets are safe.

In Pennsylvania, 702 law enforcement officers have made the ultimate sacrifice. This includes Trooper Scott Ball of the Pennsylvania State Police, Officer Walter Barclay of the Philadelphia Police Department, and last year, as Senator Rafferty mentioned, we lost one of my constituents, Chuck Cassidy. This was a tough loss for the police department, the community, and especially his family. He was a loyal policeman, a good man, and a loving husband and father. The Philadelphia community came together to comfort the Cassidy family and honor Officer Cassidy, but it will never replace his loss.

In honor of Officers Cassidy, Ball, and Barclay, the General Assembly should fight for the needs of our police officers. We must do everything that we can to shield them from violence. We must do everything in our power to help them provide for their families. And when the worst happens, we must do everything in our power to care for the families of fallen officers. Senator Rafferty has introduced, and the Senate has passed, legislation to increase the penalties for crimes against police officers. I have

also introduced a package of bills to protect police officers and their families. I ask my colleagues to join me in supporting this legislative package.

As we continue to fight to protect law enforcement officers in Harrisburg, I ask everyone, on May 5 and the week of May 11 through 17, to reflect and take an opportunity to thank our officers for the dangerous duties they willingly perform. I think if we all think about what they do, we should have nothing but gratitude in our hearts.

Thank you, Madam President.

The PRESIDENT. Thank you, Senator Stack, for your additional comments with Senator Rafferty to remember Monday, May 5, as "Police Officers' Memorial Day," and May 11 through 17 as "National Police Week" in Pennsylvania.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

### SPECIAL ORDER OF BUSINESS GUEST OF SENATOR STEWART GREENLEAF PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Madam President, it is my pleasure to rise today and introduce to the Senate Pastor John Mark Poole, who resides in Louisiana but has served previously as an aide to a Texas State Senator. Of course, after that experience, he turned to the ministry. He now serves in the ministry, and his ministry duties bring him to Pennsylvania often. I am hopeful that someday he will be moving here. I think he has indicated his interest in moving to Pennsylvania, and we would all be better off if he does. It is my pleasure, Madam President, to offer Pastor Poole to the Senate for recognition.

The PRESIDENT. Pastor, would you please rise so we can welcome you to the Pennsylvania Senate.

(Applause.)

### SENATE RESOLUTIONS ADOPTED

Senators VANCE, ERICKSON, BAKER, O'PAKE, BOSCOLA, BROWNE, COSTA, DINNIMAN, FERLO, FOLMER, FONTANA, GREENLEAF, KASUNIC, KITCHEN, LAVALLE, LOGAN, MUSTO, ORIE, PILEGGI, PIPPY, PUNT, RAFFERTY, REGOLA, RHOADES, ROBBINS, STACK, STOUT, TARTAGLIONE, TOMLINSON, WASHINGTON, M. WHITE, A. WILLIAMS, C. WILLIAMS, WONDERLING, WOZNIAC and ARMSTRONG, by unanimous consent, offered **Senate Resolution No. 306**, entitled:

A Resolution designating the month of May 2008 as "Arthritis Awareness Month" in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Cumberland, Senator Vance.

Senator VANCE. Madam President, the term "arthritis" really refers to 100 different diseases, and one in every five adults in the United States reports having doctor-diagnosed arthritis. It is the second most common chronic disease that we deal with, and very importantly, arthritis costs the United States' economy \$124 billion every year in medical care and lost wages. There is no known cause or cure for arthritis at this time, but the key to reducing the impact of arthritis is early treatment. So the purpose of this resolution is to heighten awareness and urge people to seek early treatment.

Thank you, Madam President.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senator COSTA, on behalf of Senator WASHINGTON, by unanimous consent, offered **Senate Resolution No. 307**, entitled:

A Resolution designating the month of May 2008 as "Foster Care Month" in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I offer the following remarks for the record on behalf of Senator Washington.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

*(The following prepared remarks were made part of the record at the request of the gentleman from Allegheny, Senator COSTA, on behalf of the gentlewoman from Philadelphia, Senator WASHINGTON:)*

Madam President and Members of the Senate, May is National Foster Care Month, a time for us to remember all of the children who need a safe, nurturing environment from caring adults. What do we know? We know that older youth are in most urgent need. We know that, each year, some 20,000 youth age out of the system. We know that many of those who age out become homeless, unemployed, and far too often end up in the criminal justice system. We know most age out without the appropriate resources, skills, or options they will need to live independently.

So what must we do? If nothing changes by the year 2020, nearly 14 million confirmed cases of child abuse and neglect will be reported. Two hundred and twenty-five thousand children will die of abuse or neglect, most before their fifth birthday. More than 9 million children will experience the foster care system. More than 300,000 children will age out in poor health and ill-prepared for success in higher education, technical school, college, or the workforce. And 99,000 former foster youth who age out of the system can expect to experience homelessness.

Foster Care Month is also a time for all to acknowledge the foster families, foster parents, relative caregivers, grandparents, mentors, advocates, social workers, and volunteers. These are the people who are deeply committed to our children, people who work very hard, too often for little pay. They are the ones who care for the children, who mend their broken bodies and hearts. Finally, Foster Care Month is an opportunity for all of us to show this next generation that we care and that we will not abandon them.

I ask for unanimous support for the "Foster Care Month" resolution. Thank you.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senator COSTA, on behalf of Senator WASHINGTON, by unanimous consent, offered **Senate Resolution No. 308**, entitled:

A Resolution recognizing May 8, 2008, as "National Children's Mental Health Awareness Day" in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I offer the following remarks for the record on behalf of Senator Washington.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

*(The following prepared remarks were made part of the record at the request of the gentleman from Allegheny, Senator COSTA, on behalf of the gentlewoman from Philadelphia, Senator WASHINGTON:)*

Early detection and intervention are the keys to treating mental illnesses in children. Four million children and adolescents in America are affected by emotional, behavioral, and mental illnesses, and most of these disorders begin before the age of 14. Twenty percent of children ages 9 to 17 have a diagnosable mental or addictive disorder that causes at least minimal impairment. Untreated mental illnesses in children and adolescents often lead to the development of co-occurring mental illnesses and/or substance abuse. The consequences of untreated mental illnesses in children are severe, including failure in school; involvement in the juvenile justice system, which often leads to a lifetime of involvement in the criminal justice system; higher healthcare costs; and, sadly, suicide. I join with many other child advocacy and mental health advocacy organizations on Thursday, May 8, 2008, to call attention to this "silent epidemic" in our country that knows no racial, gender, or political barriers. I ask for your support of not only the resolution, but the institutions and organizations that work diligently toward finding cures for mental illnesses.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

### CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Jennifer J. Bennett and to the Willing Hands Quilters of Shickshinny by Senator Baker.

Congratulations of the Senate were extended to Matthew Vincenzi, Byran Vincenzi and to C.F. Martin and Company, Inc., by Senator Boscola.

Congratulations of the Senate were extended to Krista Hahn, Rachel Nicholson, Krista Buchanan, David M. Ceraul and to Douglas A. Williams by Senators Boscola and Browne.

Congratulations of the Senate were extended to Dr. Lucy Gans, Charles Kiernan, Gregory Warmack, Friends of Music of Bethlehem and to Keystone National Charitable Foundation by Senator Boscola and others.

Congratulations of the Senate were extended to Ann Seydel Connors by Senator Browne.

Congratulations of the Senate were extended to Dr. William W. Bailey III, Nathan William Hiscock, Allan Horwitz, George A. Young and to the members of the West Chester East High School Varsity Ice Hockey Team by Senator Dinniman.

Congratulations of the Senate were extended to Paul D. Horger, Joe Amato and to Michael Insalaco by Senator Mellow.

Congratulations of the Senate were extended to Glenn A. Trate and to La Casa de la Amistad of Wyomissing by Senator O'Pake.

Congratulations of the Senate were extended to David M. Matter by Senator Orie and others.

Congratulations of the Senate were extended to Alexander Benson Moore, Genesis Health Care Brinton Manor Nursing Center of Glen Mills and to the Council of United Polish Societies of Chester by Senator Pileggi.

Congratulations of the Senate were extended to Mr. and Mrs. Charles R. Lessman and to Sean M. Lynn by Senator Regola.

Congratulations of the Senate were extended to Chad Steven Dymek and to Lorraine Frankhouser by Senator Rhoades.

Congratulations of the Senate were extended to the Reverend Dr. Paul O. Gaggawala and to Michael J. O'Connor by Senators Rhoades, Musto, and Boscola.

Congratulations of the Senate were extended to Zachary Reichenback, Alex Myers, Brett Goers, Keith Payton, Pamela Chivis-Coles, Arleen Gilbert, Susan Quinn, Heather Howard, Clarice Hunter Taylor, Bette Strauss, Kathy Maier and to Rita Geddes by Senator Tomlinson.

Congratulations of the Senate were extended to Chase A. Meck and to Velva Diven Daihl by Senator Vance.

Congratulations of the Senate were extended to Scott A. Salser and to the members of the Indiana Senior High School Choral Program by Senator D. White.

Congratulations of the Senate were extended to Link Beverages of Coopersburg by Senator Wonderling.

### BILLS ON FIRST CONSIDERATION

Senator BOSCOLA. Madam President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

**SB 472, SB 731, SB 1062, SB 1283, SB 1285, SB 1312, SB 1315, SB 1330, HB 775, HB 776 and HB 777.**

And said bills having been considered for the first time,

Ordered, To be printed on the Calendar for second consideration.



## PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Wonderling.

Senator WONDERLING. Madam President, I rise today to, first, submit for the record, and then I would like to provide comments, if I might, a study that was prepared by the reputable firm of Ernst & Young. This analysis is entitled "The Dividend Tax Rate Reduction: A Demographic Profile of Utility Shareholders," and Ernst & Young prepared this analysis for the Edison Electric Institute and the American Gas Association, two internationally recognized and highly reputable organizations that represent and have as their membership a wide range and composite of electric and gas utilities in Pennsylvania, across this country, and abroad.

The reason that I am submitting this for the record today, Madam President, is related to a growing concern that I have as it relates to heated rhetoric surrounding the issue of energy deregulation, the sunset provisions of such statutes that are going to create a potential economic disadvantage for utility and electric ratepayers in this Commonwealth, and some, I think, real practical solutions that this body ought to address in that regard.

My yellow flag on the heated rhetoric on this issue, I think, is due in part to the fact that we are in a national election year in which we are bombarded, Madam President, particularly as we were just prior to April 22, with slick political advertising, all organized toward the notion that creating individual, institutional, or corporate boogymen, and making such entities the target of our particular dissatisfaction, our particular issue, will move people to the polls.

And of course, I am not so sure if that is healthy for our democratic process when we call out an individual or an institution or a corporate enterprise and cast aspersions on them. It may move voters for a short period of time to vote a certain way. It may move opinion leaders and others in a certain way. But ultimately, Madam President, I believe we are here as public servants to do the serious business on behalf of the citizens of this Commonwealth. Therefore, particularly over the next several weeks, as we enter into more intense discussions on energy policy in this Commonwealth, the role of the private sector in that policy, and in particular, Madam President, decisions that this body and this General Assembly and the Governor will make as it relates to those utilities that are currently under a regulatory umbrella at the Public Utility Commission, and the impact that those decisions have on ratepayers, you and I who pay the bills and also you and I who invest in such companies.

I think we have to be very careful, Madam President, that we do not just fan rhetorical flames in a certain direction to create a lot of heat and light on a particular issue, or offer false hope and promises to citizens without offering real solutions. Also, Madam President, I think we have to be careful in this process to present the facts. That is why I have asked that this demographic profile of utility shareholders be submitted for the record, in part because I recently attended a meeting of retired schoolteachers who live in the Lehigh Valley, folks living on moderate means, folks living on fixed incomes.

You know, Madam President, as a former teacher, many of our retirees in this Commonwealth are looking for adjustments to their cost of living and are concerned about the high price of

heating oil and gasoline, and now, the prospective, potential increase in their electric rates from their local utility. At the conclusion of that meeting, I asked the group, raise your hands if you currently, or at one time or another, held stock in your local electric utility. I was shocked and amazed, Madam President, that virtually every hand in the room was raised. So that got me thinking, Madam President, that, yes, we are concerned about, let us say, the high cost of electric rates, and citizens are clearly clamoring for us to do something with that issue, but often it is the case, and I think in my anecdotal survey it is the case, that other economic considerations come into play, particularly for those citizens who have invested their retirement in utilities that generate and distribute electricity.

So just briefly, Madam President, I highlight this study, which dates back, I must say, to 2004, so it is somewhat current, but I doubt if the numbers have changed that significantly. Also, these are national demographic statistics, but I also know that they apply very nicely to the Commonwealth of Pennsylvania. It is really a measure of investment income from average citizens who invest in these utility companies.

The two key data points I would like to highlight this afternoon are that when this survey was conducted, 30 percent of the total tax returns generated, from which there was dividend income realized, came from citizens who were 65 years or older. Again, retired men and women in the United States and in this Commonwealth living on a fixed income. So, boy, that shattered a myth in my mind. These are not large, multinational corporations or slick Wall Street investment firms taking a portion of their savings and investing it in a publicly traded utility. In the case of this survey, 30 percent of those taxpayers who realized dividend income from investing in a public utility were age 65 or older. Furthermore, Madam President, 59 percent of those individuals had incomes of \$75,000 or less, and of that number, 24 percent had returns of income of \$25,000 or less.

So indeed, the constituents for whom I work hard and advocate for, to try to bring the right balance between the private sector and the public sector, have a stake in this game as it relates to what we do when the energy caps come off the utility companies in Pennsylvania. They have a very important stake in this game when they look at their electric bills, and I do not think any Member of this General Assembly wants to be party to a legislative outcome that would allow for 30-, 40-, and 50-percent increases in their electric bills. But I also think, as this evidence suggests, Madam President, and the facts suggest, that these folks are also investors in these companies and that many are one in the same. And indeed, to amplify the point, many of these folks who invest in these companies are older Pennsylvanians on fixed incomes, with income levels far below what we would define as middle class or moderate class.

So we have to be very, very cautious during the next several weeks as we work on this issue to forego what no one wants and to stop the notion that, when a rate cap comes off, a ratepayer in my Senate district would pay a 35-percent increase. No one wants that, and I am confident that reasonable minds working in a bipartisan manner can get to a solution that makes that not a reality. But when we look at these various solutions, I think we also have to understand that these are not companies that are owned by a handful of rich guys up on Wall Street or some

global sheik in the Middle East. These companies in Pennsylvania are owned by citizens just like you and me, Madam President.

Now, I know that there has been a bipartisan team working with the administration on various proposals to, quote, "smooth out" the rate caps. Again, Madam President, just to remind you and other Members of this body, we have got to this point in time because 10 years ago we said, okay, a public monopoly for the electrification of Pennsylvania is an outdated model. It was appropriate early in the 20th century, but not now at the beginning of the 21st century. So we deregulated that sector, and we provided opportunities for the private sector, along with government, to separate their businesses into generation and transmission and distribution. One of the things that happened at that time in the General Assembly, Madam President—I was not elected at that point in time—is the wisdom of the General Assembly and the Governor at that point in time decided to artificially cap the amount that these companies could charge, the actual cost associated for their use of their electricity, for the generation of that power.

Indeed, over the next several years, the statute that governs those caps is going away. Those caps are coming off. So now, if you factor in for inflation, the average Pennsylvania citizen can be facing anywhere from a 25-, 30-, or 40-percent increase in rates. No one wants that. At the same time, what we do want is the opportunity to smooth out those rates so citizens are not unnecessarily burdened with a higher electric bill, particularly during these uncertain times, while at the same time not putting these companies in such a precarious financial position that the ultimate loser will be their shareholders, who are just like you and me.

So, Madam President, I would like to thank you for the opportunity to present my opinion on this matter on this particular day. Again, I will submit the full report as offered by Ernst & Young for today's record.

The PRESIDENT. Thank you, Senator Wonderling, for your petition on this study on dividends and tax rate reductions in Pennsylvania.

*(Whereupon, the report submitted by Senator WONDERLING appears in the Appendix.)*

The PRESIDENT. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Madam President, I, too, would like to expand on energy policy here in Pennsylvania. You know, we all know the difference between a nickel and a dime, and we know that those nickels and dimes are adding up these days and financially draining middle-class working families. For the past 3 weeks, the price of a gallon of gasoline has gone up between a nickle and a dime each week, increased a nickle or a dime week after week after week. The price of bread has gone up a nickel. The price of milk went up another dime. And Pennsylvanians are feeling every nickel's worth of pain these days.

It may sound like a cliché, but it does not matter how trite it sounds when some working family is being nickeled and dimed to death by rising prices of everything. Drained bit by bit, their wallets keep getting hit. Watching their family budgets destroyed piece by piece, they struggle to make ends meet every day, because as fuel prices rise, the prices of other necessities and other goods and services also rise. And it all gets passed on to the con-

sumer standing at the end of the line, the guy who needs to buy gasoline to get to work, the mom who needs to feed her children, and everyone else whose paychecks are not increasing at the same rate as everything else. So not only are middle-class families stuck in their tracks, but they are really stuck between a rock and a hard place right now. They are staring at home foreclosures and rising unemployment as far as their eyes can see.

Madam President, last week, our neighboring States of Ohio and Maryland did something to help working families cope with the ripple effect of rising energy prices. Here is a fact, if you want to talk about facts. In Maryland, Governor O'Malley successfully negotiated a settlement to provide ratepayers with a \$170 rebate on their electric bills. That is in Maryland. They got it right. That was a good first step. And guess what the Governor said there, too? This is just the beginning. This is just the first step. And lawmakers in Maryland are determined to provide real rate relief to the people whom they represent who have been forced to pay electric bills that are 85 percent higher under full deregulation. Eighty-five percent higher.

Now, here is another fact. Last week, the Ohio State Senate and House also passed legislation to address rate caps that expire in 2009. From what I am told, Governor Strickland will sign that bill this week, in fact on Thursday, I believe. And here is another fact. Ohio's new law will give its Public Utility Commission the power to reject and reduce electric rates if power companies are earning excessive profit.

So these other States are getting it, and they are doing something about rising energy prices. Not Pennsylvania yet, because what, somebody claims it is an election year? I do not care if it is an election year or not. These people need help. Our working families need help to survive. They are struggling every day and need help with their electric bills. Now, Ohio's PUC will be able to intervene and protect electric customers from abrupt and substantial rate increases once their rate caps come off next year. And just like here in Pennsylvania, deregulation was not working in Maryland or Ohio. Their legislatures are doing something about it.

Meanwhile, in Pennsylvania, everybody is flitting around the issue. They are not really talking about it that much. So if I get up here every single week and start talking about this issue, the reason I am up here is to motivate my other colleagues to do something about this issue, not just to talk about it, not just to study it. We have got to get things done for people. That is why State lawmakers in these other States, our counterparts in those neighboring States, did something to protect homeowners, small businesses, and industrial manufacturing plants from the pain of massive electric rate increases.

Madam President, if they can do it in Ohio and Maryland, we can do it right here in Pennsylvania, because I know we have the will. If we find it, we can do it. I look forward not to just following in the footsteps of Maryland and Ohio, but to crafting a real solution for the people of Pennsylvania to be proud of. I have been talking on this issue for a long time now, and it is not because it is an election year. I am not even up this year for election, so it does not matter to me that it is an election year, personally. I am on this issue because I know the ripple effect of higher energy prices.

It is not just the people in their homes. Look around. Your bill might go up 50 percent. Your personal bill, your home bill, will go up 50 percent, but that is not the end. What about when your school tax bill goes up because the school districts have to pay more for energy, and they are going to pass that cost on to you? So your property taxes are going to go up, your city taxes are going to go up, your county taxes are going to go up, and your State taxes are going to go up. Then the price of goods and services are going to go up. And by the way, there are some small businesses out there that will not be able to survive this rate increase.

This is an economic train wreck ready to happen in Pennsylvania, and all I am trying to do is motivate my colleagues on both sides of the aisle to get off their duff and start doing something about it now, before it is too late. Now, I am confident, because I know the Members of this Senate, whom I respect very much. But if we do put our minds to it, we can strike that balance that the people need us to. That is why they elect us into office. We are supposed to fight for people. You elect me to fight for you, and that is what I am doing. I will do it every single time I see something like this about to happen.

Thank you, Madam President.

The PRESIDENT. Thank you, Senator Boscola, for your very meaningful petition.

The Chair recognizes the gentlewoman from Philadelphia, Senator Kitchen.

Senator KITCHEN. Madam President, yesterday, Senate Bill No. 232 passed in the Senate. That bill will help a lot of people in Pennsylvania to get a second chance. But we must, before we go any further, thank some people who are responsible. Number one, Senator Greenleaf and his staff, who put in so much hard work and sponsored the bill. We want to publicly thank him. And Senator Pileggi, Senator Mellow and staff, and Gladys Brown, whom I just run to and just worry about this every week. And Madam President, most of all, thank you for your help and your input. Without your input, this bill would not have passed. And also my colleagues on both sides of the aisle.

Madam President, it has to be acknowledged that a lot of people, including a coalition of 50 groups across Pennsylvania, also supported this legislation. They also came to the Capitol, and in March, 60 people lobbied the Senate on behalf of this bill. Madam President, they all reported that they were treated with respect and allowed to express their points of view. I would like to thank my colleagues for that. It is good, sometimes, to reflect that we do respect one another, that even though we have differences of opinion, we can come together. I want to thank you again, on behalf of my constituents.

Madam President, this is a good beginning, and it is an acknowledgment that a problem exists. It exists beyond economic lines, neighborhoods. It exists all across the State. Young people need a second chance. But I am encouraged by the passage of this bill, even though it does not go far enough. I had a discussion with an influential colleague across the aisle, and I look forward to next Session and working again on a bill to include nonviolent offenses that will help more young people and more people across Pennsylvania to move on with their lives. And again, I thank everyone.

Thank you, Madam President.

The PRESIDENT. Thank you, Senator Kitchen, for your comments on Senate Bill No. 232.

## COMMUNICATIONS FROM THE GOVERNOR

### NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

#### MEMBER OF THE COUNCIL OF TRUSTEES OF CHEYNEY UNIVERSITY OF PENNSYLVANIA OF THE STATE SYSTEM OF HIGHER EDUCATION

April 29, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Edward Tomeszk, 4 Princeton Eugene Lane, Media 19063, Delaware County, Ninth Senatorial District, for appointment as a member of the Council of Trustees of Cheyney University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2013, and until his successor is appointed and qualified, vice The Honorable Robert C. Wonderling, Lansdale, whose term expired.

EDWARD G. RENDELL  
Governor

#### INSURANCE COMMISSIONER OF PENNSYLVANIA

April 29, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joel S. Ario, 720 Cocoa Avenue, Hershey 17033, Dauphin County, Fifteenth Senatorial District, for appointment as Insurance Commissioner of Pennsylvania, to serve until the third Tuesday of January 2011, and until his successor is appointed and qualified, vice The Honorable M. Diane Koken, Lancaster, resigned.

EDWARD G. RENDELL  
Governor

## ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, APRIL 30, 2008

10:00 A.M.

PUBLIC HEALTH AND WELFARE  
(to consider Senate Bill No. 1373;  
and Senate Resolution No. 295)

Room 461  
Main Capitol

10:30 A.M.	STATE GOVERNMENT (to consider Senate Bills No. 137, 1146 and 1227; and any other business that may come before the Committee) C A N C E L L E D	Rules Cmte. Conf. Rm.
12:30 P.M.	MAJORITY POLICY COMMITTEE (to consider the affordability of Health Care)	Room 8-A East Wing
<u>TUESDAY, MAY 6, 2008</u>		
12:00 P.M.	AGRICULTURE AND RURAL AFFAIRS (to consider Senate Bills No. 536, 1317; Senate Resolution No. 284; and House Bill No. 1422)	Room 8E-A East Wing
<u>WEDNESDAY, MAY 7, 2008</u>		
9:00 A.M.	COMMITTEE OF CONFERENCE FOR SENATE BILL No. 246 (to consider Senate Bill No. 246)	Hrg. Rm. 1 North Off.
9:30 A.M.	FINANCE (to consider Senate Bill No. 1350; and a public hearing on Senate Bills No. 1247 and 1258)	Room 461 Main Capitol
<u>TUESDAY, MAY 13, 2008</u>		
10:00 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (public hearing on energy efficiency and demand side response programs)	Room 461 Main Capitol
<u>WEDNESDAY, MAY 14, 2008</u>		
9:00 A.M.	VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS (joint hearing with House Veterans Affairs and Emergency Preparedness Committee on Title 35)	Hrg. Rm. 1 North Off.

### RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I move that the Senate do now recess until Wednesday, April 30, 2008, at 11 a.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate recessed at 5:25 p.m., Eastern Daylight Saving Time.