

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 298

Session of
1985

INTRODUCED BY SWEET, TRELLO, J. L. WRIGHT, KUKOVICH, O'DONNELL,
ITKIN, FEE, OLIVER, FISCHER, D. R. WRIGHT, NAHILL, TIGUE,
HALUSKA, CAPPABIANCA, MICOZZIE, F. E. TAYLOR, DAWIDA,
VAN HORNE, PETRARCA, STUBAN, MRKONIC, KOSINSKI, BALDWIN,
COLAFELLA, PRESTON, LASHINGER, MICHLOVIC, PRATT, SEVENTY,
OLASZ, WOZNIAK, BOOK, AFFLERBACH, KASUNIC, FATTAH, DEAL,
BLAUM, LINTON, BELARDI, LUCYK, REBER, DALEY AND FREEMAN,
FEBRUARY 11, 1985

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 11, 1985

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for excess utilities gross receipts tax
11 to be placed into the Commonwealth Weatherization Fund.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 1101(a), (b) and (d) of the act of March
15 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
16 amended December 11, 1979 (P.L.499, No.107), is amended to read:

17 Section 1101. Imposition of Tax.--(a) General Rule.--Every
18 railroad company, pipeline company, conduit company, steamboat
19 company, canal company, slack water navigation company,

1 transportation company, and every other company, association,
2 joint-stock association, or limited partnership, now or
3 hereafter incorporated or organized by or under any law of this
4 Commonwealth, or now or hereafter organized or incorporated by
5 any other state or by the United States or any foreign
6 government, and doing business in this Commonwealth, and every
7 copartnership, person or persons owning, operating or leasing to
8 or from another corporation, company, association, joint-stock
9 association, limited partnership, copartnership, person or
10 persons, any railroad, pipeline, conduit, steamboat, canal,
11 slack water navigation, or other device for the transportation
12 of freight, passengers, baggage, or oil, except taxicabs, motor
13 buses and motor omnibuses, and every limited partnership,
14 association, joint-stock association, corporation or company
15 engaged in, or hereafter engaged in, the transportation of
16 freight or oil within this State, and every telephone company,
17 telegraph company, express company, gas company, palace car
18 company and sleeping car company, now or hereafter incorporated
19 or organized by or under any law of this Commonwealth, or now or
20 hereafter organized or incorporated by any other state or by the
21 United States or any foreign government and doing business in
22 this Commonwealth, and every limited partnership, association,
23 joint-stock association, copartnership, person or persons,
24 engaged in telephone, telegraph, express, gas, palace car or
25 sleeping car business in this Commonwealth, shall pay to the
26 State Treasurer, through the Department of Revenue, a tax [of
27 forty-five mills] at the rate prescribed in subsection (d)(2)
28 upon each dollar of the gross receipts of the corporation,
29 company or association, limited partnership, joint-stock
30 association, copartnership, person or persons, received from

1 passengers, baggage, and freight transported wholly within this
2 State, from telegraph or telephone messages transmitted wholly
3 within this State, from express, palace car or sleeping car
4 business done wholly within this State, or from the sales of
5 gas, except gross receipts derived from sales to any
6 municipality owned or operated public utility and except gross
7 receipts derived from the sales for resale, to persons,
8 partnerships, associations, corporations or political
9 subdivisions subject to the tax imposed by this act upon gross
10 receipts derived from such resale and from the transportation of
11 oil done wholly within this State. The gross receipts of gas
12 companies shall include the gross receipts from the sale of
13 artificial and natural gas, but shall not include gross receipts
14 from the sale of liquefied petroleum gas.

15 (b) Electric Light, Waterpower and Hydro-electric
16 Utilities.--Every electric light company, waterpower company and
17 hydro-electric company now or hereafter incorporated or
18 organized by or under any law of this Commonwealth, or now or
19 hereafter organized or incorporated by any other state or by the
20 United States or any foreign government and doing business in
21 this Commonwealth, and every limited partnership, association,
22 joint-stock association, copartnership, person or persons,
23 engaged in electric light and power business, waterpower
24 business and hydro-electric business in this Commonwealth, shall
25 pay to the State Treasurer, through the Department of Revenue, a
26 tax [of forty-five mills] at the rate prescribed in subsection
27 (d)(2) upon each dollar of the gross receipts of the
28 corporation, company or association, limited partnership, joint-
29 stock association, copartnership, person or persons, received
30 from:

1 (1) the sales of electric energy within this State, except
2 gross receipts derived from the sales for resale of electric
3 energy to persons, partnerships, associations, corporations or
4 political subdivisions subject to the tax imposed by this
5 subsection upon gross receipts derived from such resale; and

6 (2) the sales of electric energy produced in Pennsylvania
7 and made outside of Pennsylvania in a state that has taken
8 action since December 21, 1977 which results in higher costs for
9 electric energy produced in that state and sold in Pennsylvania
10 unless the action that was taken after December 21, 1977 is
11 rescinded according to the following apportionment formula:
12 except for gross receipts derived from sales under clause (1),
13 the gross receipts from all sales of electricity of the producer
14 shall be apportioned to the Commonwealth of Pennsylvania by the
15 ratio of the producer's operating and maintenance expenses in
16 Pennsylvania and depreciation attributable to property in
17 Pennsylvania to the producer's total operating and maintenance
18 expenses and depreciation.

19 * * *

20 (d) Tax [Computation.--] Computation; Rate.--(1) Upon the
21 date its tentative report is required to be made, for the year
22 1972 and each year thereafter the corporation, association or
23 individual making a tentative report shall transmit such report
24 to the Department of Revenue on account of the tax due for the
25 current period of twelve months and compute and make payment of
26 the tentative tax with such report pursuant to the provisions of
27 section 1202.1.

28 (2) The tax imposed by this section shall be imposed at the
29 rate shown below on the gross receipts derived from business
30 done during the indicated calendar year:

1	<u>Calendar Year</u>	<u>Rate</u>
2	<u>1985</u>	<u>45 mills</u>
3	<u>1986</u>	<u>45 mills</u>
4	<u>1987</u>	<u>43 mills</u>
5	<u>1988</u>	<u>41 mills</u>
6	<u>1989</u>	<u>39 mills</u>
7	<u>1990</u>	<u>37 mills</u>
8	<u>1991 and thereafter</u>	<u>35 mills</u>

9 (3) During fiscal year 1985-1986 and in each fiscal year
 10 thereafter, the Secretary of Revenue shall deposit in a special
 11 fund to be known as the Commonwealth Weatherization Fund, any
 12 revenue received from the tax imposed by this article in excess
 13 of the amount of revenue received from the tax imposed by this
 14 article during fiscal year 1984-1985.

15 * * *

16 Section 2. This act shall take effect in 60 days.