

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, JUNE 24, 2003

SESSION OF 2003 187TH OF THE GENERAL ASSEMBLY

No. 45

SENATE

TUESDAY, June 24, 2003

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 EDWARD PECK, of St. Andrew's Episcopal Church, Shippensburg, offered the following prayer:

I invite those who desire to join me in prayer.
Let us pray.

O God, the fountain of all wisdom, whose will is good and gracious and whose law is truth, we commend this Commonwealth to Your merciful care, that being guided by Your providence we may dwell secure in Your peace.

Grant to the Governor, the Members of this legislature, those who serve in this Senate, and all who hold authority, the knowledge and strength to do Your will, that they may enact such laws as please You and promote the well-being of Your people. Fill us with the love of truth and righteousness, and make us ever mindful of our calling to serve others. This we pray in Your most holy name. Amen.

The PRESIDENT. The Chair thanks Reverend Peck, who is the guest today of Senator Mowery.

PLEDGE OF ALLEGIANCE

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

**SPECIAL ORDER OF BUSINESS
GUEST OF SENATOR HAROLD F. MOWERY
PRESENTED TO THE SENATE**

The PRESIDENT. Reverend Peck's wife is here in the gallery. Would you please stand. Thank you for coming today.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 23, 2003.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator BRIGHTBILL, and agreed to by voice vote, further reading was dispensed with and the Journal was approved.

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 INDUSTRIAL BOARD

June 24, 2003

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, Gilbert L. Snyder, 6308 Blue Ridge Avenue, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for reappointment as a member of the Industrial Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified.

EDWARD G. RENDELL
Governor

**MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY**

June 24, 2003

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. Dawkins, III, 8807 Carlisle Road, Wyndmoor 19038, Montgomery County, Seventh Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2004, and until his successor is appointed and qualified, vice David E. Barenfeld, Ellwood City, serves at the pleasure of the Governor.

EDWARD G. RENDELL
Governor

**MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY**

June 24, 2003

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, Abbe Fletman, 422 West Price Street, Philadelphia 19144, Philadelphia County, Third Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2005, and until her successor is appointed and qualified, vice Kenneth L. Tepper, Philadelphia, serves at the pleasure of the Governor.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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, Carl Greene, 1420 Locust Street, Apartment 121, Philadelphia 19102, Philadelphia County, First Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2007, and until his successor is appointed and qualified, vice David E. Tungate, Pittsburgh, serves at the pleasure of the Governor.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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, Tom Knox, 1830 Rittenhouse Square, Philadelphia 19103, Philadelphia County, First Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2006, and until his successor is appointed and qualified, vice John P. Kameen, Forest City, serves at the pleasure of the Governor.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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, Frank Mascara, 831 Lincoln Avenue, Charleroi 15022, Washington County, Thirty-second Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2004, and until his successor is appointed and qualified, vice Timothy M. Pulte, Glen Mills, serves at the pleasure of the Governor.

EDWARD G. RENDELL
Governor

MEMBER OF THE MILK MARKETING BOARD

June 24, 2003

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, Luke F. Brubaker, 740 Union School Road, Mount Joy 17552, Lancaster County, Forty-eighth Senatorial District, for reappointment as a member of the Milk Marketing Board, to serve until May 1, 2009, and until his successor is appointed and qualified.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE REAL
ESTATE COMMISSION

June 24, 2003

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, Annie Hanna Cestra, 108 Marvelwood Place, Pittsburgh 15215, Allegheny County, Thirty-eighth Senatorial District, for appointment as a member of the State Real Estate Commission, to serve for a term of five years or until her successor is appointed and qualified, but not longer than six months beyond that period, vice Colleen Christy, Warren, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE BOARD OF TRUSTEES
OF TORRANCE STATE HOSPITAL

June 24, 2003

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, Jean H. Denny, 233 West Fifth Avenue, Derry 15627, Westmoreland County, Thirty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Torrance State Hospital, to serve until the third Tuesday of January 2009, and until her successor is appointed and qualified, vice Nathan S. Falk, Blairsville, deceased.

EDWARD G. RENDELL
Governor

MEMBER OF THE BOARD OF TRUSTEES
OF WARREN STATE HOSPITAL

June 24, 2003

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, Michael A. Hostovich, 35 Elmwood Drive, Warren 16365, Warren County, Twenty-first Senatorial District,

for appointment as a member of the Board of Trustees of Warren State Hospital, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Maurice J. Cashman, Warren, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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, Richard Block, 517 South Sixth Street, Unit C, Philadelphia 19147, Philadelphia County, First Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice William R. Davis, Greensburg, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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, Samuel A. Brackeen, III, 8407 Newbold Lane, Laverock 19038, Montgomery County, Seventh Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Alfonso Frioni, Jr., Esquire, Mount Lebanon, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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, Joseph Coughlin, 619 Third Avenue, Croydon 19021, Bucks County, Sixth Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Susan M. McDermott, Esquire, Philadelphia, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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, Harold V. Fergus, Jr., 102 LeMoyné Avenue, Washington 15301, Washington County, Forty-sixth Senatorial District, for reappointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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, Robert Krebs, 3235 Comanèche Road, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Herbert W. Hoffman, Esquire, Harrisburg, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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 C. McFadden, 140 Woodhill Lane, Media 19062, Delaware County, Twenty-sixth Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, add to complement.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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, Henry Lee Moore, 265 Montana Street, Irwin 15642, Westmoreland County, Thirty-ninth Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Daniel R. Fleck, Thornburg, whose term expired.

EDWARD G. RENDELL
Governor

**MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD**

June 24, 2003

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, Joseph Rafferty, 14420 Townsend Road, Philadelphia 19154, Philadelphia County, Fifth Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice William J. Atkinson, Langhorne, whose term expired.

EDWARD G. RENDELL
Governor

**MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD**

June 24, 2003

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, Thomas E. Reiber, 1318 Perry Highway, Portersville 16051, Butler County, Twenty-first Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Joseph P. Santone, Erie, whose term expired.

EDWARD G. RENDELL
Governor

**MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD**

June 24, 2003

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, The Honorable Harry Schwartz, 461 Pinewood Road, Philadelphia 19116, Philadelphia County, Fifth Senatorial District, for reappointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified.

EDWARD G. RENDELL
Governor

**MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD**

June 24, 2003

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, Lisa A. Watkins, 1220 Ricewynn

Road, Wyncote 19095, Montgomery County, Fourth Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until her successor is appointed and qualified, vice Robert T. McIntyre, Scranton, whose term expired.

EDWARD G. RENDELL
Governor

**MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD**

June 24, 2003

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, Delores Wilson, 1901 JFK Boulevard, Apartment 1519, Philadelphia 19103, Philadelphia County, First Senatorial District, for reappointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until her successor is appointed and qualified.

EDWARD G. RENDELL
Governor

**MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD**

June 24, 2003

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 Young, 2038 Susquehanna Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Gail L. O'Neal, Middletown, whose term expired.

EDWARD G. RENDELL
Governor

**RECALL COMMUNICATIONS
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 PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY**

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 11, 2003, for the appointment of John A. Dawkins, III, 8807

Carlisle Road, Wyndmoor 19038, Montgomery County, Seventh Senatorial District, as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2004, and until his successor is appointed and qualified, vice David E. Barenfeld, Ellwood City, serves at the pleasure of the Governor.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 11, 2003, for the appointment of Abbe Fletman, 422 West Price Street, Philadelphia 19144, Philadelphia County, Third Senatorial District, as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2005, and until her successor is appointed and qualified, vice Kenneth L. Tepper, Philadelphia, serves at the pleasure of the Governor.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 11, 2003, for the appointment of Carl Greene, 1420 Locust Street, Apartment 121, Philadelphia 19102, Philadelphia County, First Senatorial District, as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2007, and until his successor is appointed and qualified, vice David E. Tungate, Pittsburgh, serves at the pleasure of the Governor.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 11, 2003, for the appointment of Tom Knox, 1830 Rittenhouse Square, Philadelphia 19103, Philadelphia County, First Senatorial Dis-

trict, as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2006, and until his successor is appointed and qualified, vice John P. Kameen, Forest City, serves at the pleasure of the Governor.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 11, 2003, for the appointment of Frank Mascara, 831 Lincoln Avenue, Charleroi 15022, Washington County, Thirty-second Senatorial District, as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2004, and until his successor is appointed and qualified, vice Timothy M. Pulte, Glen Mills, serves at the pleasure of the Governor.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of Richard Block, 517 South Sixth Street, Unit C, Philadelphia 19147, Philadelphia County, First Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice William R. Davis, Greensburg, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of Samuel A. Brackeen, III, 8407 Newbold Lane, Laverock 19038, Montgomery County, Seventh Senatorial District, as a member of the Workers' Compensation Appeal Board,

to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Alfonso Frioni, Jr., Esquire, Mount Lebanon, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 25, 2003, for the appointment of Joseph Coughlin, 619 Third Avenue, Croydon 19021, Bucks County, Sixth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, add to complement.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of Harold V. Fergus, Jr., 102 LeMoyné Avenue, Washington 15301, Washington County, Forty-sixth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 25, 2003, for the appointment of Robert Krebs, 3235 Comanehe Road, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice *[sic]* add to complement.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 25, 2003, for the appointment of John C. McFadden, 140 Woodhill Lane, Media 19062, Delaware County, Twenty-sixth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, add to complement.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of Henry Lee Moore, 265 Montana Street, Irwin 15642, Westmoreland County, Thirty-ninth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Daniel R. Fleck, Thornburg, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of Joseph Rafferty, 14420 Townsend Road, Philadelphia 19154, Philadelphia County, Fifth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice William J. Atkinson, Langhorne, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 9, 2003, for the appointment of Thomas E. Reiber, 1318 Perry Highway, Portersville 16051, Butler County, Twenty-first Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Joseph P. Santone, Erie, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of The Honorable Harry Schwartz, 461 Pinewood Road, Philadelphia 19116, Philadelphia County, Fifth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 9, 2003, for the appointment of Lisa A. Watkins, 1220 Ricewynn Road, Wyncote 19095, Montgomery County, Fourth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until her successor is appointed and qualified, vice Robert T. McIntyre, Scranton, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 27, 2003, for the appointment of Delores Wilson, 1901 JFK Boulevard, Apartment 1519, Philadelphia 19103, Philadelphia County, First Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until her successor is appointed and qualified.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE WORKERS' COMPENSATION
APPEAL BOARD

June 24, 2003

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 9, 2003, for the appointment of James Young, 2038 Susquehanna Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, as a member of the Workers' Compensation Appeal Board, to serve until the third Tuesday of January 2007, and until his successor is appointed and qualified, vice Gail L. O'Neal, Middletown, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

HOUSE MESSAGE

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 55**, with the information the House has passed the same without amendments.

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled, and referred as follows, which were read by the Clerk:

June 24, 2003

Senators KUKOVICH, MELLOW, O'PAKE, LAVALLE, WOZNIAK, MUSTO, HUGHES, KASUNIC, TARTAGLIONE, COSTA, LOGAN, KITCHEN, STACK, FUMO, WAGNER, BOSCOLA, C. WILLIAMS, A. WILLIAMS, SCHWARTZ, FERLO, STOUT, EARLL, ORIE and CONTI presented to the Chair **SB 790**, entitled:

An Act providing for a residential neighborhood enhancement program to be administered by the Department of Community and Economic Development.

Which was committed to the Committee on COMMUNITY AND ECONOMIC DEVELOPMENT, June 24, 2003.

Senators SCARNATI, JUBELIRER, BRIGHTBILL, WAUGH, WENGER, M. WHITE, PUNT, HELFRICK,

CORMAN, ARMSTRONG, RAFFERTY, THOMPSON and WONDERLING presented to the Chair **SB 818**, entitled:

An Act amending the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, further defining "public work"; and further providing for duties of contractor and for duty of secretary.

Which was committed to the Committee on LABOR AND INDUSTRY, June 24, 2003.

Senators O'PAKE, KUKOVICH, SCHWARTZ, COSTA, TARTAGLIONE, MOWERY, KITCHEN, THOMPSON, STOUT and KASUNIC presented to the Chair **SB 824**, entitled:

An Act amending the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, providing for applicability of exemptions upon certain interim assessments.

Which was committed to the Committee on FINANCE, June 24, 2003.

Senators EARLL, PICCOLA, RAFFERTY, WAUGH, PILEGGI, STACK, ROBBINS, LEMMOND and WOZNIAK presented to the Chair **SB 828**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for deposits of additional fees.

Which was committed to the Committee on JUDICIARY, June 24, 2003.

Senators MOWERY, WENGER, HELFRICK, ORIE, EARLL, RAFFERTY, PILEGGI, RHOADES, ROBBINS, WAUGH and WONDERLING presented to the Chair **SB 829**, entitled:

An Act imposing a moratorium on enactment of new or expanded health insurance policy mandated benefits and to require the Legislative Budget and Finance Committee to study the issue of health insurance mandates and report to the General Assembly.

Which was committed to the Committee on BANKING AND INSURANCE, June 24, 2003.

Senators STACK, KUKOVICH, MUSTO, ORIE, STOUT, KITCHEN, COSTA, BOSCOLA, LOGAN, SCHWARTZ, RAFFERTY, RHOADES, TARTAGLIONE, LAVALLE, GREENLEAF, O'PAKE, KASUNIC and C. WILLIAMS presented to the Chair **SB 830**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for driver improvement course discounts; and providing for Senior citizen good driver discounts.

Which was committed to the Committee on BANKING AND INSURANCE, June 24, 2003.

Senators KASUNIC, MUSTO, RHOADES, KUKOVICH, WAGNER, COSTA, TARTAGLIONE, KITCHEN and PUNT presented to the Chair **SB 832**, entitled:

An Act amending the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, further providing for the municipal regulation of land application of sewage sludge.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, June 24, 2003.

Senators ORIE, KITCHEN, WAGNER, ERICKSON, STACK, COSTA, O'PAKE and GREENLEAF presented to the Chair **SB 833**, entitled:

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for maternal smoking cessation and prevention programs.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 24, 2003.

Senators SCARNATI, WENGER, MADIGAN, MUSTO, M. WHITE, WONDERLING, RAFFERTY, TARTAGLIONE, WOZNIAK, COSTA, LEMMOND, WAUGH, ROBBINS and THOMPSON presented to the Chair **SB 834**, entitled:

An Act amending the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974, further providing for roll-back taxes and special circumstances.

Which was committed to the Committee on AGRICULTURE AND RURAL AFFAIRS, June 24, 2003.

Senators CONTI, LEMMOND, RAFFERTY, MOWERY, TARTAGLIONE, C. WILLIAMS, RHOADES, HELFRICK, COSTA and BOSCOLA presented to the Chair **SB 835**, entitled:

An Act amending the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, establishing the Prescription Drug Access Clearinghouse Authority and providing for its powers and duties.

Which was committed to the Committee on AGING AND YOUTH, June 24, 2003.

Senator BOSCOLA presented to the Chair **SB 836**, entitled:
An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for assessment and counseling of chronic runaways.

Which was committed to the Committee on AGING AND YOUTH, June 24, 2003.

Senator BOSCOLA presented to the Chair **SB 837**, entitled:
A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for a Legislative and Congressional Reapportionment Bureau for the purpose of reapportioning and redistricting the Commonwealth of Pennsylvania.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, June 24, 2003.

Senator BOSCOLA presented to the Chair **SB 838**, entitled:
An Act amending the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act, further providing for findings and declaration of policy, for right to freedom from discrimination, housing and public accommodation; defining "marital status"; and further providing for unlawful discriminatory practices.

Which was committed to the Committee on LABOR AND INDUSTRY, June 24, 2003.

Senator BOSCOLA presented to the Chair **SB 839**, entitled:

An Act amending the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act, further providing for pari-mutuel pool retention percentages, distribution and taxation.

Which was committed to the Committee on FINANCE, June 24, 2003.

Senator BOSCOLA presented to the Chair **SB 840**, entitled:

An Act amending the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act, further providing for distributions from the State Racing Fund.

Which was committed to the Committee on FINANCE, June 24, 2003.

Senator BOSCOLA presented to the Chair **SB 841**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for property tax relief credits.

Which was committed to the Committee on FINANCE, June 24, 2003.

Senators A. WILLIAMS, RAFFERTY, TARTAGLIONE, RHOADES, COSTA, LOGAN, KITCHEN, M. WHITE, C. WILLIAMS and WAGNER presented to the Chair **SB 842**, entitled:

An Act prohibiting the sale of ephedra.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 24, 2003.

Senators C. WILLIAMS, MELLOW, WAGNER, MUSTO, KITCHEN, EARLL, COSTA, LOGAN, RHOADES, STACK, LEMMOND, PILEGGI and KASUNIC presented to the Chair **SB 843**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for personal financial literacy program.

Which was committed to the Committee on EDUCATION, June 24, 2003.

Senators STOUT and MADIGAN presented to the Chair **SB 844**, entitled:

An Act providing for the highway capital budget project itemization for the fiscal year 2003-2004.

Which was committed to the Committee on TRANSPORTATION, June 24, 2003.

RESOLUTION INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Resolution numbered, entitled, and referred as follows, which was read by the Clerk:

June 24, 2003

Senator C. WILLIAMS presented to the Chair **SR 112**, entitled:

A Resolution observing "National ASK Day" in Pennsylvania on June 21, 2003.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, June 24, 2003.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Public Health and Welfare to meet during today's Session in the Rules room to consider House Bill No. 100.

BILLS REPORTED FROM COMMITTEES

Senator DENT, from the Committee on Urban Affairs and Housing, reported the following bills:

SB 427 (Pr. No. 489)

An Act amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, further providing for required contractual provision regarding home inspections and for reliance by buyer.

HB 349 (Pr. No.1573)

An Act amending the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, further defining "city."

HB 500 (Pr. No. 1989)

An Act providing for a residential neighborhood enhancement program to be administered by the Department of Community and Economic Development.

Senator ERICKSON, from the Committee on Local Government, reported the following bills:

SB 716 (Pr. No. 838)

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, further providing for exercise of eminent domain and for restrictions as to certain property.

HB 51 (Pr. No. 2183) (Amended)

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for powers and duties of authorities.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I ask for legislative leaves for Senator Orie and Senator Helfrick.

The PRESIDENT. Senator Brightbill requests legislative leaves for Senator Orie and Senator Helfrick. Without objection, the leaves will be granted.

LEAVE OF ABSENCE

Senator PIPPY remains on military leave pursuant to Senate Rule XXI(3).

**SENATE CONCURRENT RESOLUTION
WEEKLY ADJOURNMENT**

Senator BRIGHTBILL offered the following resolution, which was read as follows:

In the Senate, June 24, 2003

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week, it reconvene on Monday, June 30, 2003, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week, it reconvene on Monday, June 30, 2003, unless sooner recalled by the Speaker of the House of Representatives.

On the question,
Will the Senate adopt the resolution?

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

YEA-48

Armstrong	Hughes	O'Pake	Tartaglione
Boscola	Jubelirer	Orie	Thompson
Brightbill	Kasunic	Piccola	Tomlinson
Conti	Kitchen	Pileggi	Wagner
Corman	Kukovich	Punt	Waugh
Costa	LaValle	Rafferty	Wenger
Dent	Lemmond	Rhoades	White, Donald
Earl	Logan	Robbins	White, Mary Jo
Erickson	Madigan	Scarnati	Williams, Anthony H.
Fumo	Mellow	Schwartz	Williams, Constance
Greenleaf	Mowery	Stack	Wonderling
Helfrick	Musto	Stout	Wozniak

NAY-1

Ferlo

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

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

**SPECIAL ORDER OF BUSINESS
GUEST OF SENATOR JOSEPH B. SCARNATI
PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Jefferson, Senator Scarnati.

Senator SCARNATI. Madam President, it gives me great pleasure today to introduce a guest from my hometown of Brockway, somebody who, as we all have in our lives growing up, has an impact on the end result and how you are brought up, and this gentleman had an extreme impact on me. He stood for me when I was baptized, and I am very proud to have my cousin and my godfather here with me today, Albert Yanni from Brockway.

The PRESIDENT. Will Senator Scarnati's cousin please stand.

(Applause.)

**GUESTS OF SENATOR MIKE WAUGH
PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Waugh.

Senator WAUGH. Madam President, I have two young men today as guests who are brothers from the beautiful borough of Hanover, Pennsylvania, Matthew and Brenton Green. Brenton is a political science student and Matthew is a newlywed. Two weeks ago he had the pleasure of having his outdoor wedding in Hanover. They are here today just to see what we do in the Senate, and I ask for a warm welcome.

The PRESIDENT. Will Matthew and Brenton Green please rise.

(Applause.)

**GUESTS OF SENATOR JAY COSTA
PRESENTED TO THE SENATE**

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

Senator COSTA. Madam President, today I have the great privilege of introducing four very special guests who have traveled from Pittsburgh today to see how our State government operates here in Harrisburg. Madam President, these outstanding individuals will be devoting their time this summer in my Forest Hills district office working on various projects. Already their help has proved beneficial in assisting my staff with everyday operations.

The first of these guests is Emily Phan-Gruber, who will be a senior at Penn Hills High School this coming year and plans to attend college upon graduation. I have had the pleasure of associating closely with her mom and dad over the years, especially her mother in her capacity as the assistant director of the Center for Victims of Violent Crime, and more recently as the head of the Birmingham Foundation in the South Side of Pittsburgh.

Next is Rachel McCool, whom I have had the pleasure of knowing through her parents, Thomas and Maria, who are active parishioners of St. Maurice Catholic Church. She recently graduated from Woodland Hills High School as a top-ranking student and will be attending Dickinson College this fall where she plans to focus on medieval and renaissance studies.

Jim Hyland is also here this afternoon. He is a recent graduate of Pittsburgh Central Catholic High School and will be attending Cornell University in New York, this fall where he will be in business or communications while joining the baseball team as an infielder. Jim's parents, Jim, Sr., and Rita, have been friends of mine for a number of years.

Last, but certainly not least, is Hank Watson, who just finished his freshman year at the University of Pennsylvania in Philadelphia. As he enters his sophomore year, he plans to direct his studies to psychology. I have known Hank and his parents, Dennis and Joan, for quite some time and work closely with his

father, a managing partner at the firm of Grogan, Graffam in Pittsburgh.

Madam President, all four of these young people have much to be proud of through their achievements and accomplishments and higher education aspirations, and it has been a pleasure to have them working in my district office, although I have not been there that much lately, but I know that over the course of the summer I will have the opportunity to work much more closely with them. I ask my colleagues to give these four fine young students a warm welcome to the Pennsylvania Senate.

Thank you, Madam President.
(Applause.)

GUEST OF SENATOR CHARLES W. DENT PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Madam President, it is my pleasure today to introduce one of my summer interns from my Allentown district office, Collin Long, who is seated in the gallery. He will be a senior at Syracuse University. He is a neighbor to my parents, and his father is the acting fire chief for the Allentown Fire Department. Would the Senate extend Collin its usual warm welcome.

The PRESIDENT. Will Collin please rise.
(Applause.)

PARLIAMENTARY INQUIRY

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

Senator MELLOW. Madam President, prior to consideration of today's Calendar, I would like to rise for a point of information.

The PRESIDENT. The gentleman will state his point.

Senator MELLOW. Madam President, it is our understanding that on June 17, last Tuesday, House Bill No. 888, a bill that would amend the PACE program, passed the House of Representatives by a vote of 200 to 0. Can you tell us, first of all, if that bill has been received in the Senate?

The PRESIDENT. Senator Brightbill.

Senator MELLOW. No, Madam President, I am asking the Chair, not Senator Brightbill.

The PRESIDENT. We will have to check that on our computer.

Senator MELLOW. Madam President, may we be at ease for a moment?

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

The PRESIDENT. The bill has been received. It has not been referred to committee as yet.

Senator MELLOW. Madam President, can the Chair explain to us or can the Chair tell us, based on my point of information, who is supposed to refer the bills to the appropriate committee?

The PRESIDENT. The President pro tempore of the Senate.

Senator MELLOW. Madam President, will the President pro tempore of the Senate permit himself to be interrogated?

The PRESIDENT. Will the President pro tempore of the Senate stand for interrogation?

The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, could we stand at ease?

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

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

Senator MELLOW. Madam President, based on the discussion I just had with Senator Brightbill, where he assured me that House Bill No. 888 will be referred to the appropriate committee today, I would like to withdraw my request to interrogate Senator Jubelirer.

The PRESIDENT. The Chair thanks the gentleman.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, at this time I ask for a recess of the Senate for the purpose of a Republican caucus, which will begin immediately. For the information of the Members, at the conclusion of caucus, we will have a meeting of the Committee on Appropriations and then be back on the floor. I guess we will be out an hour, an hour and a half.

The PRESIDENT. Senator Brightbill requests a recess for a Republican caucus, followed by a meeting of the Committee on Appropriations.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request that our Members report to our caucus room at the rear of the Senate Chamber.

The PRESIDENT. Senator Mellow requests that the Democratic Members report to their caucus room for a Democratic caucus.

Without objection, the Senate will stand in recess.

AFTER RECESS

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

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER

SB 79 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL OVER IN ORDER TEMPORARILY

SB 100 -- Without objection, the bill was passed over in its order temporarily at the request of Senator BRIGHTBILL.

BILLS OVER IN ORDER

SB 255, SB 386, SB 586, HB 623, SB 733 and SB 778 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE
AS AMENDED OVER IN ORDER

HB 651 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL REREPORTED FROM COMMITTEE
AS AMENDED ON SECOND CONSIDERATION

HB 1105 (Pr. No. 2167) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for the expiration of the Pennsylvania Veterans' Memorial Commission and for the administration of the Pennsylvania Veterans' Memorial Trust Fund.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 77, HB 89 and HB 106 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL REREFERRED

SB 131 (Pr. No. 127) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 27, 1955 (P.L. 744, No. 222), known as the Pennsylvania Human Relations Act, further providing for findings and declaration of policy, for right to freedom from discrimination, housing and public accommodation; defining "marital status"; and further providing for unlawful discriminatory practices.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

BILL OVER IN ORDER

SB 483 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 581 (Pr. No. 644) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of trespassing on railroad property; and providing for penalties.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 674 and SB 684 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 711 (Pr. No. 981) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the right of action regarding profits received as a result of the commission of a crime.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 782, HB 898 and HB 1006 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 1406 (Pr. No. 1740) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating political subdivisions as rural areas for purposes of Medicare hospital service payments.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

SB 100 CALLED UP

SB 100 (Pr. No. 992) -- 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 BRIGHTBILL.

BILL AMENDED

SB 100 (Pr. No. 992) -- The Senate proceeded to consideration of the bill, entitled:

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

and collection of an earned income and net profits tax by school districts after approval by the electors.

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

MELLOW AMENDMENT A2320

Senator MELLOW offered the following amendment No. A2320:

Amend Title, page 1, lines 5 through 7, by striking out "providing for the imposition and" in line 5 and all of lines 6 and 7 and inserting: further providing for budgets; providing for limits on unreserved fund balances; further providing for distress in first class school districts; providing for property tax relief and for taxation by school districts; further providing for auxiliary services; deleting provisions relating to professional teacher assessment; further providing for exceptional children costs, for firefighter and emergency service training, for education support services, for school improvement grants, for the Mandate Waiver Program, for educational improvement tax credit definitions, for payments on account of vocational pupils and for small district assistance; providing for basic education funding for 2002-2003; further providing for payments to intermediate units, for extraordinary special education program expenses and for Commonwealth reimbursements for charter school and cyber charter schools; making appropriations; and making a repeal.

Amend Bill, page 1, lines 10 through 19; pages 2 through 24, lines 1 through 30; page 25, lines 1 through 27, by striking out all of said lines on said pages and inserting:

Section 1. Section 687 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a subsection to read:

Section 687. Annual Budget; Additional or Increased Appropriations; Transfer of Funds.—***

(i) (1) Notwithstanding any other provisions of this act, the board of school directors of each school district is required to and shall reopen its 2003-2004 budget during the month of July 2003 to reflect any increased State allocations under sections 2502.13 and 2502.41 for fiscal year 2003-2004 provided by the General Assembly through this act and to comply with section 688.

(2) In those school districts which levy taxes and where the increased State allocations exceed the State revenue figures utilized by the school district at the time of adoption of its original fiscal year 2003-2004 budget, the board of school directors shall first use the increase in State allocations to do any of the following:

(i) offset the increase in the employer contribution rate on behalf of active members of the Public School Employees' Retirement System as calculated under 24 Pa.C.S. § 8328 (relating to actuarial cost method). Such amount shall supplant any other school district revenues allocated for this purpose;

(ii) abate any local taxes which were levied at the time of original budget adoption. Such tax abatements shall occur within sixty (60) days of the reopening of the school district's budget and may take the form of tax reductions, rebates or credits;

(iii) reduce or retire any outstanding indebtedness of the school district; or

(iv) restore funding to any educational programs which were reduced or eliminated for the 2003-2004 school year.

(3) Under no circumstances shall any increased State allocations be used to increase a school district's reserved or unreserved fund balances.

Section 2. The act is amended by adding a section to read:

Section 688. Limitations on Certain Unreserved Fund Balances.—(a) For the 2003-2004 school year and each school year thereafter, no school district shall approve an increase in real property taxes unless it has adopted a budget or a reopened budget pursuant to section 687 that includes an estimated, ending unreserved undesignated fund balance in accordance with the limitations set forth as follows:
School District Estimated, Ending Unreserved Undesignated

Total Budgeted Expenditures	Fund Balance as Percentage of Total Budgeted Expenditures
Less Than or Equal to \$11,999,999	12%
Between \$12,000,000 and \$12,999,999	11.5%
Between \$13,000,000 and \$13,999,999	11%
Between \$14,000,000 and \$14,999,999	10.5%
Between \$15,000,000 and \$15,999,999	10%
Between \$16,000,000 and \$16,999,999	9.5%
Between \$17,000,000 and \$17,999,999	9%
Between \$18,000,000 and \$18,999,999	8.5%
Greater Than or Equal to \$19,000,000	8%

(b) By August 15, 2003, and each year thereafter, each school district that approves an increase in real property taxes shall provide the Department of Education with information certifying compliance with this section. Such information shall be provided in a form and manner prescribed by the Department of Education and shall include information on the school district's estimated, ending unreserved undesignated fund balance expressed as a dollar amount and as a percentage of the school district's total budgeted expenditures for that school year.

(c) As used in this section, "estimated, ending unreserved undesignated fund balance" shall mean that portion of the fund balance, which is appropriable for expenditure or not legally or otherwise segregated for a specific or tentative future use, projected for the close of the school year for which a school district's budget was adopted and held in the General Fund accounts of the school district.

Section 3. Section 696(h)(1) of the act, amended June 29, 2002 (P.L.524, No.88), is amended to read:

Section 696. Distress in School Districts of the First Class.—***

(h) The School Reform Commission shall be responsible for financial matters related to the distressed school district of the first class and:

(1) [All] Except as provided in Article VI-A, all taxes authorized to be levied by a school district of the first class or for a school district of the first class by a city or county of the first class on the date of the declaration of distress shall continue to be authorized and levied in accordance with this act and shall be transmitted to the school district. For the first fiscal year or part thereof and every fiscal year thereafter in which the school district is declared to be distressed, the amount appropriated or paid by the city or county to the school district and the tax authorized by the city or county to be levied for the school district or dedicated to the school district shall be an amount or tax not less than the highest amount paid by the city or county to the school district or authorized by the city or county to be levied for the school district or dedicated to the school district during any of the three full preceding fiscal years. In addition, the city of the first class shall provide to the school district of the first class all other available local non-tax revenue, including grants, subsidies or payments made during the prior year.

Section 4. The act is amended by adding articles to read:

ARTICLE VI-A
PROPERTY TAX RELIEF

Section 601-A. Definitions.

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

"Department." The Department of Education of the Commonwealth.

"Eligible entity." A school district, other than a district in a city of the first class, that reduces taxes on homesteads and, where farmsteads exist, on farmsteads for fiscal year 2004-2005 and maintains those reductions in subsequent years pursuant to this article. In a city of the first class, the term shall mean a school district where the city council reduces the resident and nonresident tax on wages for fiscal year 2003-2004, maintains those reductions in subsequent years pursuant to this article and transfers existing real estate millage from a school district in a city of the first class to the city of the first class in fiscal year 2003-2004 up to the amount required to replace the reduced revenue realized as a result of the wage tax reduction.

"Farmstead." All buildings and structures on a farm not less than ten contiguous acres in area located in this Commonwealth that are used primarily to produce or store any farm product produced on the farm for

purposes of commercial agricultural production, to house or confine any animal raised or maintained on the farm for the purpose of commercial agricultural production, to store any agricultural supply to be used on the farm in commercial agricultural production or to store any machinery or equipment used on the farm in commercial agricultural production and the land on which such buildings are located. This term shall only apply to farms used as the principal residence and domicile of an owner.

"Farmstead exclusion." A tax exclusion applied to lower the assessed value of a farmstead pursuant to section 2(b)(1) of Article VIII of the Constitution of Pennsylvania.

"Fund." The Property Tax Relief Trust Fund.

"Homestead." A dwelling in this Commonwealth, the parcel of land on which the dwelling is located and the other improvements located on the parcel, other than any improvements included in a farmstead, for which any of the following apply:

(1) The dwelling is primarily used as the principal residence and domicile of an owner who is a natural person. The homestead for real property qualifying under this paragraph shall not include the land on which the dwelling is located if the land is not owned by a person who owns the dwelling.

(2) The dwelling is a unit in a condominium as the term is defined in 68 Pa.C.S. § 3101 (relating to definitions) and the unit is primarily used as the principal residence and domicile of a natural person who is an owner of the unit; or the dwelling is a unit in a cooperative as the term is defined in 68 Pa.C.S. § 4103 (relating to definitions) and the unit is primarily used as the principal residence and domicile of a natural person who is an owner of the unit. The homestead for a unit in a condominium or a cooperative shall be limited to the assessed value of the unit which shall be determined in a manner consistent with the assessment of real property taxes on those units under 68 Pa.C.S. (relating to real and personal property) or as otherwise provided by law. If the unit is not separately assessed for real property taxes, the homestead shall be a pro rata share of the real property.

(3) The dwelling does not qualify under paragraphs (1) and (2) and a portion of the dwelling is used as the principal residence and domicile of an owner. The homestead for real property qualifying under this paragraph shall be the portion of the real property that is equal to the portion of the dwelling that is used as the principal residence and domicile of an owner.

"Homestead exclusion." A tax exclusion applied to lower the assessed value of a homestead pursuant to section 2(b)(vi) of Article VIII of the Constitution of Pennsylvania.

"Owner." Any owner of a homestead or farmstead who is:

(1) an individual domiciled in this Commonwealth;

(2) a grantor who has placed the homestead or farmstead in a revocable trust, provided that the grantor is a natural person domiciled in this Commonwealth; or

(3) a partner of a family farm partnership or a shareholder of a family farm corporation as the terms are defined in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, provided that the partner or shareholder is a natural person domiciled in this Commonwealth.

Section 602-A. Property Tax Relief Trust Fund.

(a) Establishment.—There is hereby established in the State Treasury a special fund to be known as the Property Tax Relief Trust Fund.

(b) Source of revenue.—Money shall be deposited into the fund from the following sources:

(1) The following percentage of the revenues received from the tax imposed on telephone, telegraph and commercial mobile radio services providers under Article XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(i) in fiscal year 2003-2004, 54.95%;

(ii) in fiscal year 2004-2005, 63.10%; and

(iii) in fiscal year 2005-2006 and in each fiscal year thereafter, 65.26%.

(2) Revenues received from the tax on slot machine wagering.

(3) Revenues received from the increase in the malt beverage tax imposed under Article XX of the Tax Reform Code of 1971 from \$0.08 per gallon to \$0.25 per gallon.

(4) Revenue from the imposition of an increase in the personal income tax as authorized under Article III of the Tax Reform Code of 1971 as follows:

(i) In fiscal year 2003-2004 by the revenue collected from levying the tax from 2.8% to 3.2%.

(ii) In fiscal year 2004-2005 by the revenue collected from levying the tax from 2.8% to 3.025%.

(iii) In fiscal year 2005-2006 and in each fiscal year thereafter by the revenue collected from levying the tax from 2.8% to 2.95%.

(5) Additional appropriations from the General Fund as may be required pursuant to subsection (c).

(c) Required deposit.—The fund shall have an amount available for payments on account of the reduction of taxes. The amount available for fiscal year 2003-2004 shall be \$1,537,000,000. This amount shall be adjusted each year by the rate of change in the Consumer Price Index for all urban consumers in order to provide an increasing amount available for reduction of taxes pursuant to this article. No adjustment will be made where the rate of change is equal to or less than zero. If sufficient money is not deposited in the fund from subsection (b) in any fiscal year, an amount equal to the amount necessary to reach the required amount in that fiscal year shall be transferred from the General Fund. The Governor shall identify the amount projected to be needed from the General Fund in each annual budget submission to the General Assembly. Such amount is hereby specifically appropriated from the General Fund to the fund.

(d) Use of funds.—Money in the fund shall be used to:

(1) Provide rebates to owners for property taxes paid on homesteads and farmsteads for school year 2003-2004 in accordance with the provisions of the article of the Tax Reform Code of 1971, relating to property tax relief rebates.

(2) Provide funding in accordance with the provisions of Article XXV to eligible entities, other than eligible entities in cities of the first class, to replace reduced revenues resulting from reductions of taxes on homesteads and, where applicable, on farmsteads paid by owners for fiscal year 2004-2005 and for each fiscal year thereafter.

(3) Provide funding in accordance with the provisions of Article XXV to eligible entities in cities of the first class to replace reduced revenues resulting from the transfer of millage to the city of the first class for the purposes of reductions of the resident and nonresident tax on wages for fiscal year 2003-2004 and for each fiscal year thereafter.

(4) Provide funding in accordance with the provisions of Article XXV to eligible entities where the amount of funding available from the Commonwealth for tax reductions as a result of the granting of homestead exclusions would exceed the maximum level of exclusions permitted under section 2(b)(vi) of Article VIII of the Constitution of Pennsylvania for fiscal year 2004-2005 and for each fiscal year thereafter.

(5) Provide funding in accordance with the provisions of Article XXV to eligible entities that currently provide a homestead exclusion or a farmstead exclusion in accordance with 53 Pa.C.S. Pt. VII Subpt. C (relating to taxation and assessments) for fiscal year 2004-2005 and for each fiscal year thereafter.

(6) Provide funding for administrative costs incurred by the Department of Revenue for issuing rebates in accordance with the provisions of the article of the Tax Reform Code of 1971, relating to property tax relief rebates, and thereafter to provide funding for administrative costs incurred by the Commonwealth or the counties in performing their duties in connection with subsequent reductions in taxes pursuant to this article.

(e) Appropriation.—The money in the fund is hereby appropriated upon approval of the Governor for the purposes set forth in this article.

Section 603-A. Property tax relief.

(a) School districts.—

(1) In order to receive funding from the fund for the school year 2004-2005 and for each year thereafter, each board of school directors must, by August 5, 2003, adopt a resolution to reduce the amount of taxes levied on a homestead through the use of a homestead exclusion and, where farmsteads exist, on a farmstead through the use of a farmstead exclusion and must maintain such

reductions thereafter.

(2) The board of school directors and county boards of assessments shall calculate the amount of the reductions based on the amount available from the Commonwealth for such reductions pursuant to this article and shall convert the reduction into a homestead exclusion which shall be applied equally to all homesteads in the school district and, where applicable, a farmstead exclusion which shall be applied equally to all farmsteads in the school district. The amounts of the homestead exclusion and the farmstead exclusion shall be the same.

(3) The board of school directors shall certify to the department that the exclusions in paragraph (2) have been enacted.

(4) In order for an owner to qualify for an exclusion, the owner shall apply to the county board of assessments on a form specified by the county board of assessments unless the owner applied to the Department of Revenue for a rebate in accordance with the provisions of the article of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, relating to property tax relief rebates after 2002. In such event, the owner shall not be required to apply to the county board of assessments for the same property.

(5) An exclusion granted to an owner under this section shall continue to apply until the real property for which the exclusion was granted has been transferred or the real property is no longer eligible for an exclusion.

(b) Cities of the first class.—

(1) In order for an eligible entity in a city of the first class to receive funding from the fund in fiscal year 2003-2004 and each year thereafter, cities of the first class shall reduce the rate of tax on wages for both residents' and nonresidents' tax on wages by the same percentage and shall maintain such reductions thereafter. The city shall calculate the amount of the reductions based on the amount available from the Commonwealth for such reductions pursuant to this article. The city shall certify to the department that such tax rate reductions have been enacted. The tax rate reductions implemented by a city of the first class pursuant to this article shall be in addition to the following schedule of wage tax rate reductions:

(i) In 2004, 0.8333% for residents and 0.8332% for nonresidents.

(ii) In 2005, 0.8403% for residents and 0.8402% for nonresidents.

(iii) In 2006, 0.8475% for residents and 0.8473% for nonresidents.

(iv) In 2007, 0.8547% for residents and 0.8545% for nonresidents.

(v) In 2008, 0.8621% for residents and 0.8619% for nonresidents.

(2) Eligible entities may qualify for any sums remaining in their allocation under this article following the application of the provisions of this section to homesteads to reduce tax rates on all properties located in the applicable school districts. In cases where the amount of exclusions given for homesteads would exceed the level permitted by the homestead exclusion, school districts shall apply the excess allocation to lower millage rates for all properties located within the school district to provide the full level of property tax reductions intended in this article.

Section 604-A. Penalties.

(a) Summary offense.—An owner who knowingly receives an exclusion for real property that is not eligible for an exclusion commits a summary offense and upon conviction shall be sentenced to pay a fine not exceeding \$300. In addition, the owner shall be ordered to repay the amount of the exclusion plus simple interest computed at the rate provided in section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, plus a penalty of 10% of the unpaid taxes and interest due.

(b) Misdemeanor.—A person who knowingly files a fraudulent application under this article commits a misdemeanor of the third degree and upon conviction shall be sentenced to pay a fine not exceeding \$2,500.

ARTICLE VI-B TAXATION BY SCHOOL DISTRICTS

(a) General Provisions

Section 601-B. Short title of article.

This article shall be known and may be cited as the Taxpayer Choice Act.

Section 602-B. Definitions.

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

"Board of school directors." A board of school directors of a school district of the second class, third class or fourth class.

"Budgeted revenue." Local tax revenue. The term shall not include revenue from any of the following:

(1) Delinquent taxes.

(2) Payments in lieu of taxes.

(3) The real estate transfer tax.

(4) The distribution of the public utility realty tax imposed under Article XI-A of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(5) A mercantile or business privilege tax on gross receipts.

(6) An amusement or admissions tax.

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

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

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

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

"Dwelling." A structure used as a place of habitation by a natural person.

"Earned income." All of the classes of income defined as earned income in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Election officials." The county board of elections of a county.

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

"Farmstead." All buildings and structures on a farm not less than ten contiguous acres in area, not otherwise exempt from real property taxation or qualified for any other abatement or exclusion pursuant to any other law, that are used primarily:

(1) to produce or store any farm product produced on the farm for purposes of commercial agricultural production;

(2) to house or confine any animal raised or maintained on the farm for the purpose of commercial agricultural production;

(3) to store any agricultural supply to be used on the farm in commercial agricultural production; or

(4) to store any machinery or equipment used on the farm in commercial agricultural production.

This term shall only apply to farms used as the domicile of an owner.

"Farmstead property." A farmstead for which an application has been submitted and approved under 53 Pa.C.S. § 8584 (relating to administration and procedure).

"Homestead." A dwelling, including the parcel of land on which the dwelling is located and the other improvements located on the parcel for which any of the following apply:

(1) The dwelling is primarily used as the domicile of an owner who is a natural person. The homestead for real property qualifying under this paragraph shall not include the land on which the dwelling is located if the land is not owned by a person who owns the dwelling.

(2) The dwelling is a unit in a condominium as the term is defined in 68 Pa.C.S. § 3103 (relating to definitions) and the unit is primarily used as the domicile of a natural person who is an owner of the unit; or the dwelling is a unit in a cooperative as the term is defined in 68 Pa.C.S. § 4103 (relating to definitions) and the unit is primarily used as the domicile of a natural person who is an owner of the unit. The homestead for a unit in a condominium or a cooperative shall be limited to the assessed value of the unit, which shall be determined in a manner consistent with the assessment of real property taxes on those units under 68 Pa.C.S. (relating to real and personal property) or as otherwise provided by law. If the unit is not separately assessed for real property taxes, the homestead shall be a pro rata share of the real property.

(3) The dwelling does not qualify under paragraphs (1) and (2) and a portion of the dwelling is used as the domicile of an owner who is a natural person. The homestead for real property qualifying under this paragraph shall be the portion of the real property that is equal to the portion of the dwelling that is used as the domicile of an owner.

"Homestead property." A homestead for which an application has been submitted and approved under 53 Pa.C.S. § 8584 (relating to administration and procedure).

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

"Local tax revenue." The revenue from taxes actually levied and assessed by a school district. The term does not include interest or dividend earnings, Federal or State grants, contracts or appropriations, income generated from operations or any other source that is not derived from taxes levied and assessed by a school district.

"Municipality." As defined in 1 Pa.C.S. § 1991 (relating to definitions).

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

"Owner." Includes any of the following:

(1) A joint tenant or tenant in common.

(2) A person who is a purchaser of real property under a contract.

(3) A partial owner.

(4) A person who owns real property as a result of being a beneficiary of a will or trust or as a result of intestate succession.

(5) A person who owns or purchases a dwelling on leased land.

(6) A person who holds a life lease in real property previously sold or transferred to another.

(7) A person in possession under a life estate.

(8) A grantor who has placed the real property in a revocable trust.

(9) A member of a cooperative as defined in 68 Pa.C.S. § 4103 (relating to definitions).

(10) A unit owner of a condominium as defined in 68 Pa.C.S. § 3103 (relating to definitions).

(11) A partner of a family farm partnership or a shareholder of a family farm corporation as the terms are defined in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Political subdivision." As defined in 1 Pa.C.S. § 1991 (relating to definitions).

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

"Primarily used." Usage of at least 51% of the square footage of a dwelling.

"Resident individual." An individual who is domiciled in a school district.

"School district." A school district of the second class, third class or fourth class.

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

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

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

"Taxpayer." An individual required under this article to file a tax return or to pay a tax.

Section 603-B. Scope and limitations.

(a) General rule.—Except as provided in subsection (b) and section 605-B, it is the intent of this article to confer upon each school district the power to levy, assess and collect an earned income and net profits tax as set forth in subdivision (c).

(b) Real estate transfer taxes.—This article shall not be construed to affect the power of a school district to levy, assess and collect a real estate transfer tax.

(c) Occupation tax.—This article shall not be construed to affect the power of a school district to do any of the following:

(1) To elect to place a referendum question on the ballot

pursuant to the act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act. A school district may place such referendum question on the ballot at the same municipal election as a referendum question placed on the ballot pursuant to subdivision (b).

(2) To eliminate its occupation tax pursuant to the Optional Occupation Tax Elimination Act.

Section 604-B. Preemption.

No act of the General Assembly shall be construed to vacate or preempt any resolution adopted under this article providing for the imposition of a tax by a school district unless the act of the General Assembly expressly vacates or preempts the authority to adopt the resolution.

Section 605-B. Certain rates of taxation limited.

If a municipality and school district both impose an earned income and net profits tax on the same individual under the Local Tax Enabling Act and the municipality and school district are limited to or have agreed upon a division of the tax rate in accordance with section 8 of the Local Tax Enabling Act, then the municipality that continues to levy the earned income and net profits tax under the Local Tax Enabling Act shall remain subject to that limitation or agreement in the event that the school district opts to impose an earned income and net profits tax under section 621-B.

(b) Tax Authorization

Section 611-B. General tax authorization.

Subject to sections 613-B and 614-B, each school district may by resolution levy, assess and collect or provide for the levying, assessment and collection of an earned income and net profits tax under subdivision (c).

Section 612-B. Continuity of tax.

An earned income and net profits tax levied under the provisions of subdivision (c) shall continue in force on a fiscal year basis without annual reenactment unless the rate of tax is increased or the tax is subsequently repealed.

Section 613-B. Adoption of referendum.

(a) General rule.—

(1) In order to levy an earned income and net profits tax under subdivision (c), a board of school directors shall use the procedures set forth in subsection (b).

(2) A board of school directors after making an election to levy an earned income and net profits tax under subdivision (c) may, after a period of at least five full fiscal years, elect under the provisions of subsection (c) to end participation under this subdivision. If the electorate approves a referendum to do so, the board of school directors may not continue to levy an earned income and net profits tax under subdivision (c).

(b) Public referendum requirements.—Except as set forth in subsection (d) the following apply:

(1) Subject to the notice and hearing requirements of section 626-B, a board of school directors may levy the earned income and net profits tax under subdivision (c) only by obtaining the approval of the electorate of the affected school district in a public referendum at only the municipal election preceding the fiscal year when the earned income and net profits tax will be initially imposed. The county board of elections shall cause the referendum question required by this section to be submitted to the electors of the school district.

(2) The referendum question shall state the initial rate of the proposed earned income and net profits tax to be levied under subdivision (c), the reason for the tax and the amount of proposed budgeted revenue growth, if any, in the first fiscal year following adoption of the referendum, expressed as a percent increase over the prior year's budgeted revenue. Any increase in budgeted revenue between the first fiscal year following adoption of the referendum and the prior year's budgeted revenue shall not exceed 2%. The question shall be in clear language that is readily understandable by a layperson. For the purpose of illustration, a referendum question may be framed as follows:

Do you favor the imposition of an earned income and net profits tax of X% to be used in order to reduce residential real property taxes by X% and provide for a one-time revenue increase of X% over the preceding fiscal year?

A nonlegal interpretative statement shall accompany the referendum question in accordance with section 201.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. A board of school directors of a school district in which a referendum under this section has been approved shall not be subject to the provisions of section 614-B for any future increases in the earned income and net profits tax rates authorized under subdivision (c). If the referendum question fails to receive a majority vote pursuant to this section, approval of the electorate under section 614-B shall not be required to levy any tax or increase the rate of any tax which the board of school directors of the affected school district is authorized to levy and increase pursuant to any other act.

(c) Public referendum requirements for the municipal election of 2003.—In addition to the provisions of subsection (b), the following shall apply for the municipal election of 2003:

(1) The referendum question required by this section shall be submitted to the electors of each school district for the municipal election of 2003.

(2) No later than August 5, 2003, the board of school directors of each school district shall adopt the resolution required under section 626-B authorizing the referendum question. The resolution and the referendum question shall be based on the calculation provided for under section 626-B(b).

(3) If the board of school directors fails to adopt the resolution required under section 626-B by August 5, 2003, the county board of elections shall prepare a referendum question that authorizes an earned income and net profits tax for the school district at the maximum rate permitted, based on the calculation provided for under section 626-B(b) minus the amount of the homestead exclusion under Article VI-A.

(4) The county board of elections shall cause the referendum question required by this subsection to be submitted to the electors of the school district consistent with the provisions of this section.

(d) Public referendum requirements to end participation under this subdivision.—Subject to the notice and public hearing requirements in section 4 of the Local Tax Enabling Act, a board of school directors may elect to end participation under this subdivision in accordance with subsection (a)(2) by obtaining the approval of the electorate of the affected school district in a public referendum at a municipal election.

(e) Nonapplicability.—This section shall not apply to any of the following:

(1) A school district in which a referendum question under 53 Pa.C.S. § 8703 (relating to adoption of referendum) has been approved and implemented.

(2) A school district of the first class.

(3) A school district of the first class A.

(4) A school district certified as distressed pursuant to section 691 or an education empowerment district pursuant to section 1705-B or 1707-B.

Section 614-B. Public referendum requirements for increasing certain taxes.

(a) Applicability.—This section shall apply to the board of school directors of a school district in which a referendum under section 613-B is approved.

(b) Prohibitions.—Except as set forth in subsection (f), unless there is compliance with subsection (c), a board of school directors may not do any of the following:

(1) Increase the rate of a tax levied for the support of the public schools by more than the percentage increase in the Statewide average weekly wage in the preceding year.

(2) Levy a tax for the support of the public schools which was not levied in the fiscal year in which a referendum under section 613-B was approved.

(3) Raise the rate of the earned income and net profits tax, if already imposed under the authority of section 13 of the Local Tax Enabling Act, except as otherwise provided for under section 621-B.

(c) Referendum.—

(1) In order to take an action under subsection (b)(1), at the primary election immediately preceding the fiscal year in which the proposed tax increase would take effect:

(i) a referendum stating the specific rate or rates of the tax increase must be submitted to the electors residing in the school district; and

(ii) a majority of the electors voting on the referendum must approve the increase.

(2) In order to take an action under subsection (b)(2), at the primary election immediately preceding the fiscal year in which the proposed tax would take effect:

(i) a referendum stating the specific tax and rate to be levied must be submitted to the electors residing in the school district; and

(ii) a majority of the electors voting on the referendum must approve the tax.

(d) Failure to approve referendum.—

(1) If there is no approval under subsection (c)(1)(ii), the board of school directors may approve an increase in the tax rate of not more than the percentage increase in the Statewide average weekly wage in the preceding year.

(2) If there is no approval under subsection (c)(2)(ii), the board of school directors may not levy the tax.

(e) Exception to general rule.—The provisions of subsection (b)(1) shall not apply to an increase in the rate of any tax levied for the support of the public schools which is less than or equal to the percentage increase in the Statewide average weekly wage in the preceding year. Prior to any increase under this subsection, the board of school directors shall certify to the Department of Education the estimates of local tax rates under this subsection. The Department of Education may, on its own motion or on petition of a person having standing under subsection (f), revise the estimates certified by the board of school directors and reduce the allowable increase in the rate of any tax under this subsection.

(f) Referendum exceptions.—The provisions of subsection (b)(1) shall not apply to an increase in the rate of any tax levied for the support of the public schools where the increase is necessary to respond to one or more of the following conditions:

(1) To respond to or recover from an emergency or disaster declared pursuant to 35 Pa.C.S. § 7301 (relating to general authority of Governor) or 75 Pa.C.S. § 6108 (relating to power of Governor during emergency), only for the duration of the emergency or disaster.

(2) To implement a court order or an administrative order from a Federal or State agency that requires the expenditure of funds that exceed current available revenues, provided that the rate increase is rescinded following fulfillment of the court order or administrative order.

(3) (i) To pay interest and principal on any indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) prior to the effective date of this section, provided that in no case may the school district incur additional debt under this paragraph, except for the refinancing of existing debt, including the payment of costs and expenses related to such refinancing and the establishment or funding of appropriate debt service reserves and provided further that the increase is rescinded following the final payment of interest and principal.

(ii) The exception provided under this paragraph may not be used in lieu of the referendum under subsection (c)(2) to pay for costs which could not be financed by the issuance of debt under 53 Pa.C.S. (relating to municipalities generally).

(4) To respond to conditions that pose an immediate threat of serious physical harm or injury to the students, staff or residents of the school district, but only until the conditions causing the threat have been fully resolved.

(5) Special purpose tax levies approved by the electorate.

(6) (i) To maintain per-student local tax revenue in the school district at an amount not exceeding the amount of per-student local tax revenue at the level of the preceding year, adjusted for the percentage increase in the Statewide average weekly wage.

(ii) This paragraph shall apply only if the percentage growth in average daily membership in the school district between the current fiscal year and the third fiscal year

immediately preceding the current fiscal year exceeds 10%. For the purposes of this paragraph, per-student local tax revenue shall be determined by dividing local tax revenue by average daily membership.

(g) Revenue derived from increase.—Any revenue derived from an increase in the rate of any tax allowed pursuant to an exception under subsection (f)(3) or (5) shall not exceed the anticipated dollar value of the expenditure for which the exception under subsection (f) was sought.

(h) Limitation on rate.—The increase in the rate of any tax allowed pursuant to an exception under subsection (f)(1), (2), (4) or (6) shall not exceed the rate increase required as determined by a court of common pleas pursuant to subsection (i).

(i) Court action.—Prior to the imposition of the tax increase under subsection (f)(1), (2), (4) or (6), approval by the court of common pleas in the judicial district in which the administrative office of the school district is located must be obtained. The board of school directors shall publish in a newspaper of general circulation a notice of its intent to file an action under this subsection at least one week prior to the filing of the petition. The board of school directors shall also publish in a newspaper of general circulation notice, as soon as possible following notification from the court that a hearing has been scheduled, stating the date, time and place of the hearing on the petition. The following shall apply to any proceedings instituted under this subsection:

(1) The board of school directors must prove by clear and convincing evidence the necessity for the tax increase.

(2) The board of school directors must prove by clear and convincing evidence the anticipated dollar value of the expenditure for which an exception under subsection (f) is sought.

(3) The board of school directors must prove by clear and convincing evidence that there are no assets or other feasible alternatives available to the school district.

(4) The court shall determine the dollar value of the expenditure for which an exception under subsection (f) is sought, the rate increase required and the appropriate duration of the increase. The court may retain continuing jurisdiction and may, on its own motion or on petition of an interested party, revoke approval for or order rescission of a tax increase.

(j) Standing.—A person shall have standing as a party to a proceeding under this section as long as the person resides within or pays real property taxes to the taxing jurisdiction of the board of school directors instituting the action.

Section 615-B. Property tax limits on reassessment.

After any county makes a countywide revision of assessment of real property at values based upon an established predetermined ratio as required by law or after any county changes its established predetermined ratio, a board of school directors in a school district in which a referendum under section 613-B has been approved, which after the effective date of this section for the first time levies its real estate taxes on that revised assessment or valuation, shall for the first year reduce its tax rate, if necessary, for the purpose of having the percentage increase in taxes levied for that year against the real properties contained in the duplicate for the preceding year be less than or equal to the percentage increase in the Statewide average weekly wage for the preceding year notwithstanding the increased valuations of such properties under the revised assessment. For the purpose of determining the total amount of taxes to be levied for the first year, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses need not be considered. The tax rate shall be fixed for that year at a figure which will accomplish this purpose. The provisions of section 614-B shall apply to increases in the tax rate above the limits provided in this section.

(c) Earned Income and Net Profits Tax

Section 621-B. Authorization.

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

(b) Tax rates determined.—

(1) In any school district that has failed to adopt a resolution signaling its intent to provide property tax relief pursuant to Article

VI-A, the earned income and net profits tax authorized under subsection (a) shall not be less than the rate required to provide an exclusion for farmstead property and an exclusion for homestead property equal to 50% of the maximum exclusion under 53 Pa.C.S. § 8586 (relating to limitations) and shall not exceed a rate that would provide total tax relief exceeding 75% of the total residential property taxes assessed within the school district. For purposes of this paragraph, total residential property taxes shall be calculated by multiplying the total property tax amount as reported by the school district on its 2001-2002 annual financial report by the percent of assessed valuations attributable to residential properties as certified by the State Tax Equalization Board. If total revenue available for tax relief pursuant to this section would exceed the total amount available to provide the maximum exclusion for homestead and farmstead property and a school district provides for the maximum homestead exclusion, any excess revenue shall reduce millage for all taxpayers up to the 75% limit referenced in this paragraph.

(2) In any school district that has adopted a resolution signaling its intent to provide property tax relief pursuant to and in accordance with Article VI-A, the earned income and net profits tax authorized under subsection (a) shall not be less than the rate required to provide an exclusion for farmstead property and an exclusion for homestead property equal to 50% of the maximum available exclusion and shall not exceed a rate that would provide total tax relief exceeding 75% of the total residential property taxes assessed within the school district. If the property tax relief provided under Article VI-A requires the school district to implement at least 50% of maximum homestead exclusion under 53 Pa.C.S. § 8586, the district may levy the earned income and net profits tax at a rate which maintains the amount of the property tax relief under Article VI-A. For purposes of this paragraph, the "maximum available exclusion" shall be calculated by subtracting the amount of the exclusion provided pursuant to Article VI-A from the maximum exclusion available within the district pursuant to 53 Pa.C.S. § 8586. If total revenue available for tax relief pursuant to this section would exceed the total amount available to provide the maximum available exclusion for homestead and farmstead property and a school district provides for the maximum available homestead exclusion, any excess revenue shall reduce millage for all taxpayers up to the 75% limit referenced in this paragraph and defined in paragraph (1).

(3) The board of school directors shall round the rate of the earned income and net profits tax levied pursuant to this subsection to the nearest tenth of a percent. The exclusion for farmstead property granted under this section shall not exceed the amount granted for the exclusion for homestead property.

Section 622-B. Collections.

A board of school directors imposing a tax under section 621-B shall designate the tax officer who is appointed under section 10 of the Local Tax Enabling Act, or otherwise by law, as the collector of the earned income and net profits tax. In the performance of the tax collection duties under this subdivision, the designated tax officer shall have all the same powers, rights, responsibilities and duties for the collection of the taxes which may be imposed under the Local Tax Enabling Act, 53 Pa.C.S. Ch. 84, Subch. C (relating to local taxpayers bill of rights) or as otherwise provided by law.

Section 623-B. Credits.

(a) General rule.—The provisions of section 14 of the Local Tax Enabling Act shall be applied by a board of school directors to determine any credits under the provisions of this subdivision for a tax imposed under section 621-B.

(b) Tax credit.—A credit against personal income tax due to the Commonwealth under section 302 of the Tax Reform Code shall be granted to each taxpayer who is a nonresident of a city of the first class but who is subject to an earned income and net profits tax levied by a city of the first class. The credit shall be equal to the amount of any earned income and net profits tax levied by the school district where the taxpayer resides. The Secretary of Revenue shall promulgate regulations and forms as are necessary to implement the provisions of this section. If any court of competent jurisdiction determines that this section is unconstitutional, the provisions of this section shall be void and no

credit shall be expanded or extended in any way by any court.
Section 624-B. Earned income and net profits tax exemption.

A school district that imposes a tax under section 621-B may exempt from the payment of that tax any person whose total income from all sources is less than \$10,000.

Section 625-B. Rules and regulations.

A tax imposed under section 621-B shall be subject to all regulations adopted under section 13 of the Local Tax Enabling Act. A school district may adopt regulations for the processing of claims for credits or exemptions under sections 623-B and 624-B.
Section 626-B. Procedure and administration.

(a) Levy.—In order to levy a tax under section 621-B, the board of school directors shall adopt a resolution which shall refer to this subdivision prior to placing a referendum question on the ballot under section 613-B. Prior to adopting a resolution imposing a tax under section 621-B, the board of school directors shall give public notice of its intent to adopt the resolution under this section, and of whether the board has adopted a resolution signaling its intent to provide property tax relief in accordance with Article VI-A, in the manner provided by section 4 of the Local Tax Enabling Act and shall conduct at least one public hearing regarding the proposed adoption of the resolution.

(b) Calculation.—For the purposes of proposing a resolution and referendum under section 613-B(c), the board of school directors shall calculate:

(1) The value of homestead property in the school district by dividing the total assessed value of residential property in the school district in calendar year 2002, as compiled by the State Tax Equalization Board, by the total number of owner-occupied housing units in the school district as reported by the United States Census Bureau for the 2000 census in Summary File 1.

(2) The maximum homestead exclusion by multiplying the quotient from paragraph (1) by 0.50.

(3) The proposed homestead exclusion for the school district by multiplying the product from paragraph (2) by a number as determined by the board of school directors, after adjusting, if applicable, for the amount of tax relief provided pursuant to Article VI-A, as determined by the Department of Revenue and the department provided that such number is greater than or equal to 0.50 and less than or equal to 1.0.

(4) The proposed reduction in real property taxes for the school district by multiplying the product from paragraph (3) by the real property tax millage rate of the school district in effect for the 2001-2002 school year.

(5) The amount of the millage rate reduction, if any, funded through the additional earned income and net profits tax revenue available, based upon the 75% limit set forth in section 621-B. This paragraph shall only apply to a school district proposing to reduce millage rates after calculating the proposed reduction in real property taxes under paragraph (4) and after maximizing its homestead exclusion.

Section 627-B. Disposition of earned income and net profits tax revenue.

The disposition of revenue from a tax or an increase in the rate of a tax imposed by school districts under section 621-B shall occur in the following manner:

(1) For the fiscal year of implementation of a newly imposed income tax, all earned income and net profits tax revenue received by a school district shall be used to provide for an amount equal to the earned income and net profits tax revenue over the preceding fiscal year; an increase in budgeted revenues over the preceding fiscal year in accordance with the amount specified in the referendum question approved by the voters under section 613-B; and a reduction in the school district real property tax by means of an exclusion for farmstead property and homestead property or by means of a millage reduction pursuant to section 621-B.

(2) For the fiscal year of implementation of an increase in the rate of the existing tax imposed under section 621-B, all revenue received by a school district directly attributable to the increased rate shall be used to reduce the school district real property tax by means of an exclusion for farmstead property and homestead property or by means of a millage reduction pursuant to section 621-B.

(d) Homestead Exclusion

Section 691-B. Changes to the amount of the homestead exclusion.

(a) Increases in the homestead exclusion.—A school district may increase the amount of the exclusion for homestead property required pursuant to section 627-B consistent with the prohibitions in 53 Pa.C.S. § 8586 (relating to limitations).

(b) Decreases in the homestead exclusion.—A school district may only reduce the exclusion for homestead property below the level authorized pursuant to the referendum required under section 613-B, subsection (c) and section 692-B(d) when the median assessed value used in calculating the homestead exclusion decreases.

(c) Reassessment.—After a revision of assessments by means of revaluing all properties, the governing body providing an exclusion for homestead property under section 613-B shall adjust the amount of the exclusion pursuant to 53 Pa.C.S. § 8583(e) (relating to exclusion for homestead property).

Section 692-B. Homestead exclusion process.

(a) Listing required.—Not later than September 1, 2003, and not later than September 1 of each year thereafter, the board of school directors of each school district shall compile a listing of all real property within the school district that it believes to be qualified as a homestead or a farmstead as those terms are defined under 53 Pa.C.S. § 8401 (relating to definitions) or 8582 (relating to definitions). The school district shall use information or statements from the owners or residents of the property and shall consult with the assessor of the county in compiling the list. This listing may be compiled at the same time as the enumeration of school children is performed pursuant to section 1351.

(b) Notification to homestead owners.—If the electors of a school district approve a referendum question pursuant to section 613-B, the board of school directors shall, by first class mail, notify the owners of each homestead and each farmstead on the listing required by this section that submitting an application is required under 53 Pa.C.S. Ch. 85 Subch. F (relating to homestead property exclusion) prior to the property being qualified for any homestead or farmstead exclusion authorized by law. The notice required by this section shall include a copy of the application required by the assessor of the county where the property is located and the instructions for completing and returning the application.

(c) Calculation of the homestead and farmstead exclusion.—The listing of homesteads and farmsteads required to be compiled under this section shall be used by the school district in estimating the amount of the homestead exclusion and farmstead exclusion for purposes of a referendum question under section 613-B(b).

(d) Revisions to the initial calculation of homestead and farmstead exclusion for school districts.—If the electors of a school district approve a referendum question pursuant to 613-B(c), the board of school directors shall revise the calculation utilized under section 626-B(b) with information derived from the listing required under subsection (a) no later than March 1, 2004. Such revised calculation shall be used to provide homestead and farmstead exclusions. Where the tax imposed under section 621-B is insufficient to provide the homestead and farmstead exclusions authorized through approval of a referendum question, the exclusions may be reduced accordingly.

(e) Appeals.—Real property for which an application under 53 Pa.C.S. § 8584 (relating to administration and procedure) has been filed by March 1, 2004, shall be deemed to be a homestead property or farmstead property, as the case may be, for the purposes of implementing a homestead or farmstead exclusion under 53 Pa.C.S. § 8717 (relating to disposition of earned income and net profits tax revenue) in the school district fiscal year beginning July 1, 2004, unless the assessor denies the application within the time provided by law and the denial is unappealed or unappealable. The school district is authorized to collect taxes, interest and penalties relating to a homestead or farmstead exclusion that is denied after the denial is unappealed or unappealable.

(f) Reports.—In addition to the report required under 53 Pa.C.S. § 8584(i), the assessor shall be required to provide a supplemental report containing the information required under 53 Pa.C.S. § 8584(i) for applications filed by March 1, 2004. The date of the supplemental report shall be set by the school district, but shall not be earlier than

June 1, 2004.

(g) Applicability.—Subsections (b), (c), (d), (e), (f) and (g) shall apply only to school districts that approve a referendum under section 613-B at the 2003 municipal election.

(e) Register

Section 693-B. Register for taxes.

(a) General rule.—The department shall maintain an official continuing register supplemented annually of all earned income and net profits taxes levied under subdivision (c).

(b) Contents of register.—The register shall list:

(1) The school districts levying the tax.

(2) The rate of tax as stated in the resolution levying the tax.

(3) The rate on taxpayers.

(4) The name and address of the official responsible for administering the collection of the tax and from whom information, forms and copies of regulations are available.

Section 694-B. Information for register.

Information for the register shall be furnished by the school district to the department as prescribed by the department. The information must be received by the department no later than July 15 of each year to show new tax enactments, repeals and changes. Failure to comply with the filing date may result in the omission of the tax levy from the register for that year. Failure of the department 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.

Section 695-B. Availability and effective period of register.

The register, with such annual supplements as may be required by new tax enactments, repeals or changes, shall be available upon request no later than August 15 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.

Section 696-B. Effect of nonfiling.

Employers shall not be required by any ordinance to withhold from the compensation of their employees any local earned income and net profits tax imposed under subdivision (c) which is not listed in the register or to make reports of compensation in connection with taxes not so listed. If the register is not available by August 15, the register of the previous year shall continue to be effective for an additional period of not more than one year.

Section 697-B. Effect of subdivision on liability of taxpayer.

The provisions of this subdivision shall not be construed to affect the liability of any taxpayer for taxes lawfully imposed under subdivisions (b) and (c).

Section 5. Section 922.1-A of the act, amended or added August 1, 1975 (P.L.180, No.89), April 24, 1977 (P.L.199, No.59), October 10, 1980 (P.L.924, No.159) and May 10, 2000 (P.L.44, No.16), is reenacted to read:

Section 922.1-A. Auxiliary Services.—(a) Legislative Finding; Declaration of Policy. The welfare of the Commonwealth requires that the present and future generation of school age children be assured ample opportunity to develop to the fullest, their intellectual capacities. It is the intent of the General Assembly by this enactment to ensure that the intermediate units in the Commonwealth shall furnish on an equal basis auxiliary services to all pupils in the Commonwealth in both public and nonprofit nonpublic schools.

(b) Definitions. The following terms, whenever used or referred to in this section, shall have the following meanings, except in those circumstances where the context clearly indicates otherwise:

"Auxiliary services" means guidance, counseling and testing services; psychological services; visual services as defined in section 923.2-A; services for exceptional children; remedial services; speech and hearing services; services for the improvement of the educationally disadvantaged (such as, but not limited to, the teaching of English as a second language), and such other secular, neutral, nonideological services as are of benefit to all school children and are presently or hereafter provided for public school children of the Commonwealth.

"Nonpublic school" means nonprofit school, other than a public school within the Commonwealth of Pennsylvania, wherein a resident of the Commonwealth may legally fulfill the compulsory school attendance requirements of this act and which meet the requirements of Title VI of the Civil Rights Act of 1964 (Pub.L.88-352; 42 U.S.C.

Section 2000 et seq).

(c) Program of Auxiliary Services. Students attending nonpublic schools shall be furnished a program of auxiliary services which are provided to public school students in the school district in which their nonpublic school is located. The program of auxiliary services shall be provided by the intermediate unit in which the nonpublic school is located, in accordance with standards of the Secretary of Education. Before an intermediate unit makes any decision that affects the opportunities for children attending nonpublic schools to participate in the auxiliary services provided under this section, the intermediate unit shall consult with such nonpublic schools to determine at a minimum: which general categories of children shall receive services; what services shall be provided; how and where the services shall be provided; and how the services shall be evaluated. Such services shall be provided directly to the nonpublic school students by the intermediate unit in the schools which the students attend, in mobile instructional units located on the grounds of such schools or in any alternative setting mutually agreed upon by the school and the intermediate unit, to the extent permitted by the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania.

Such auxiliary services shall be provided directly by the intermediate units and no auxiliary services presently provided to public school students by the intermediate units and/or school districts by means of State or local revenues, during the school year 1974-1975, shall be eliminated. No school districts shall be required, pursuant to any section of this act, to offer auxiliary services provided by any other school districts within such intermediate units.

(d) Allocations. In July of 1977 and annually thereafter in July, the Secretary of Education shall allocate to each intermediate unit an amount equal to the number of nonpublic school students as of October 1 of the preceding school year who are enrolled in nonpublic schools within the intermediate unit times seventy-two dollars (\$72). The Secretary of Education shall increase this figure on a proportionate basis whenever there is an increase in the median actual instruction expense per WADM as defined in clause (12.1) of section 2501 of this act. The Commonwealth shall pay to each intermediate unit fifteen per centum (15%) of its allocation on August 1, seventy-five per centum (75%) on October 1, and the remaining ten per centum (10%) on the first day of February.

(e) Limitations. The intermediate unit shall not use more than six per centum (6%) of the funds it receives for administration or eighteen per centum (18%) for rental of facilities. The Department of Education shall not use more than one per centum (1%) of the funds it allocates under this section for administrative expenses. If all funds allocated by the intermediate units to administration, or rental facilities are not expended for those purposes, such funds may be used for the program costs.

(f) Interest. There shall be no adjustment in the allocation as provided in subsection (d) because of interest earned on the allocations by the intermediate units. Interest so earned shall be used for the purpose of this section but shall not be subject to the limitations of subsection (e).

(g) Preliminary Budget. Annually, each intermediate unit shall submit to the secretary a preliminary budget on or before January 31 and a final budget on or before June 15, for the succeeding year; and shall file a final financial report on or before October 31 for the preceding year.

Section 5.1. Article XII-A of the act is repealed.

Section 6. Section 1376 of the act, amended June 7, 1993 (P.L.49, No.16), June 30, 1995 (P.L.220, No.26) and June 22, 2001 (P.L.530, No.35), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.—(a) When any child between school entry age and twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or has cerebral palsy and/or neurological impairment and/or muscular dystrophy and/or is mentally retarded and/or has a serious emotional disturbance and/or has autism/pervasive developmental disorder and is enrolled, with the approval of the Department of Education, as a pupil in an approved private school approved by the Department of Education, in accordance with standards and regulations promulgated by the State Board of

Education, the school district in which such child is resident or, for students placed by a charter school, the charter school in which the student was enrolled shall pay the greater of either twenty per centum (20%) of the actual audited cost of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," as calculated pursuant to section 2561, and the Commonwealth shall pay, out of funds appropriated to the department for special education, the balance due for the costs of such child's tuition and maintenance, as determined by the department. For the school years 1989-1990, 1990-1991 and 1991-1992, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. For the 1992-1993 school year and each school year thereafter, the school district or charter school payment shall be the greater of forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," as calculated pursuant to section 2561, and the Commonwealth shall pay, out of funds appropriated to the department for approved private schools, the balance due for the costs of such child's tuition and maintenance, as determined by the department. The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. [The Department of Education shall be provided with such financial data from approved private schools as may be necessary to determine the reasonableness of costs for tuition and room and board concerning Pennsylvania resident approved reimbursed students. The Department of Education shall evaluate such data and shall disallow any cost deemed unreasonable. Any costs deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.]

(b) When any person less than school entry age or more than twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or has cerebral palsy and/or has neurological impairment and/or has muscular dystrophy, or has autism/pervasive developmental delay, and is enrolled, with the approval of the Department of Education, as a pupil in an approved private school approved by the Department of Education, the Commonwealth shall pay to such school, out of moneys appropriated to the department for special education, the actual audited cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the State Board of Education in accordance with subsection (b.1), and in addition, in the case of any child less than school entry age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

(b.1) For the 2004-2005 school year and each school year thereafter, an approved private school shall submit to the Department of Education its budgeted costs for the upcoming school year. Based upon this information and the prior year's settled audit, the Department of Education shall develop an interim reimbursement rate for the approved private school. The Department of Education shall provide the approved private school with monthly payments in advance of the final cost settlement as provided for in subsection (c.2). The Department of Education shall adopt final reimbursement rates based on the final cost settlement. The Department of Education may withhold a portion of such payments not exceeding five percent (5%) of such payment, pending final cost settlement. In no event shall either the payments made in advance of the final cost settlement or final reimbursements based on the final cost settlement made by the Department of Education exceed the appropriation available for approved private schools.

[(c) Each approved private school, prior to the start of the school year, shall submit to the department such information as the department may require in order to establish an estimate of reimbursable costs.

Based upon this information, any other data deemed necessary by the department and in accordance with department standards, the department shall develop for each approved private school an estimate of reimbursable costs. Based upon such estimate, the department shall provide each approved private school with monthly payments in advance of department audit. The department may withhold a portion of such payments not exceeding five percent (5%) of such payment, pending final audit. In no event shall either the advance payments or final reimbursement made by the department following audit exceed the appropriation available for approved private schools.]

(c.1) Any funds remaining from the appropriation line items "for special education - approved private schools" or for Pennsylvania Charter Schools for the Deaf and Blind from the general appropriations acts for fiscal years 1978-1979 and each fiscal year thereafter shall be transferred by the State Treasurer into a restricted account (continuing appropriation) for audit resolution which is hereby established. The Department of Education shall also deposit into this restricted account any funds returned to or recovered by the department from approved private schools or chartered schools for overpayments during fiscal years 1978-1979 and each fiscal year thereafter. The funds in the restricted account are hereby appropriated upon approval of the Governor to the Department of Education for payments to approved private schools for audit resolutions for fiscal years 1978-1979 and each fiscal year thereafter. Funds in this restricted account shall not be subject to the limitations in subsection [(c)] (b.1) which prohibit advance payments and final reimbursement from exceeding the appropriation available for approved private schools. During the 1995-1996 fiscal year and during each fiscal year thereafter, the Department of Education shall review the activity in the restricted account and may recommend that the Governor authorize the lapsing into the General Fund of any funds that are estimated not to be needed for audit resolution.

(c.2) The Department of Education shall establish procedures and audit standards to govern the scope of reportable costs, the methods used to examine costs and determine allowability and timeliness of cost reporting. For the 2004-2005 school year and each school year thereafter, cost reports shall be prepared by an approved private school and audited by the approved private school's independent public accountant. Such cost reports shall be prepared in accordance with established procedures and audit standards and delivered to the Department of Education within six (6) months after the conclusion of the school year. The Department of Education shall have six (6) months to process these cost reports and settle any outstanding payments due to or from the approved private school. Nothing in this subsection shall be construed to preclude the Department of Education from conducting its own audits on a periodic basis. Where the Department of Education conducts such audits, the audits must be completed within one (1) year of the cost report deadline and may not delay the allowable period for settlement of any payments due to or from the approved private school. Audits of cost reports submitted for school years prior to the 2004-2005 school year shall be completed in a manner consistent with prior audit practices.

(d) No private institution receiving payment in accordance with this section shall impose any charge on the student and/or parents who are Pennsylvania approved reimbursable residents for a program of individualized instruction and maintenance appropriate to the child's needs; except that charges for services not part of such program may be made if agreed to by the parents.

[(e) (1) The Education Committees of the Senate and House of Representatives are directed to jointly examine the issues of the funding of approved private schools and special education students' access to approved private schools as part of the full continuum of special education placements. The committees' examination should address, at a minimum, the following issues:

(i) The funding methodology which supports the school district's responsibility for individualized, appropriate educational services to special education students through access to the most comprehensive continuum of educational options and settings.

(ii) The role of the approved private school in the mandated continuum of special education services available to students in Pennsylvania.

(iii) The relative roles of the Department of Education and school

districts to ensure free appropriate public education (FAPE) through adequate funding and appropriate distribution of comprehensive services.

(iv) The provisions of the Individuals with Disabilities Education Act (IDEA) (P.L.101-476), the Cordero Court Orders, this act and 22 Pa. Code Chs. 14 and 342 as they relate to the provision of programs and services to special education students should be carefully reviewed as they pertain to approved private schools, continuum of placement options, funding, FAPE and other pertinent issues.

(2) The committees shall report back to the General Assembly by November 15, 1993, with legislative and/or administrative recommendations. The committees may hold such meetings and hearings as they deem appropriate to accomplish the provisions of this subsection.]

Section 7. The act is amended by adding a section to read:

Section 1550. Firefighter and Emergency Service Training.—(a) Beginning with the 2003-2004 school year and each school year thereafter, a school district may offer firefighter and emergency service training as credit-earning courses to students of the age of sixteen (16) years or older. Such courses may include:

(1) Training as a Firefighter I from the National Board on Fire Service Professional Qualifications.

(2) Training as an emergency medical technician by the Department of Health under the act of July 3, 1985 (P.L.164, No.45), known as the "Emergency Medical Services Act."

(b) A school district that offers firefighter and emergency service training as credit-earning courses shall provide transportation to and supervision during any firefighter and emergency service training program that takes place off school grounds. Supervision of training shall be conducted as a cooperative education program in accordance with the provisions of 22 Pa. Code § 11.28 (relating to out-of-school programs).

Section 8. Section 1501-C of the act, amended June 29, 2002 (P.L.524, No.88), is reenacted to read:
Section 1501-C. Definitions.

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

"Department." The Department of Education of the Commonwealth.

"Eligible student." A resident of this Commonwealth who is enrolled in third, fourth, fifth or sixth grade in a school entity and is deemed eligible pursuant to section 1502-C(b).

"Eligibility test." The Pennsylvania System of School Assessment or a commercially prepared, standardized achievement test approved by the Department of Education. A list of approved tests under this article shall be published annually in the Pennsylvania Bulletin.

"Grant." A grant awarded to a grant recipient under this article.

"Grant recipient." A resident of this Commonwealth who is a parent, guardian or person in parental relation to an eligible student.

"Program." The Education Support Services Program established in section 1502-C.

"Provider." A school entity, an institution of higher education, a nonprofit or for-profit organization or a certified teacher employed by a school entity, that is approved by the Department of Education to provide education support services.

"School entity." Any of the following located in this Commonwealth: a school district, intermediate unit, joint school district, area vocational-technical school, charter school, independent school, licensed private academic school, accredited school, a school registered under section 1327(b), the Scotland School for Veterans' Children or the Scranton School for the Deaf.

Section 9. Sections 1502-C, 1503-C and 1504-C, of the act, added May 17, 2001 (P.L.4, No.4), are reenacted to read:
Section 1502-C. Establishment of program.

(a) Establishment.—The Education Support Services Program is established within the department to provide individual or small group instruction in reading and mathematics to strengthen the skills that an eligible student needs to achieve the standards in 22 Pa. Code Ch. 4 (relating to academic standards and assessment), which shall be provided at a time other than the regularly scheduled school hours.

(b) Eligibility.—The department shall utilize the Pennsylvania

System of School Assessment test or other test results to identify eligible students under this article. Scores used to determine eligible students in each grade shall be published annually in the Pennsylvania Bulletin.

(c) Approval.—A provider must be approved by the department in order to provide education support services under this article.
Section 1503-C. Application and approval.

(a) Application.—A prospective grant recipient shall apply annually to the department for a grant to purchase education support services for an eligible student from an approved provider in a time and manner prescribed by the department.

(b) Required information.—An application submitted under this section shall include verification of the eligibility test results and such other information as the department may require.

Section 1504-C. Powers and duties of the department.

The department shall:

(1) Establish criteria to annually identify eligible students in grades three, four, five and six to participate in the program under section 1502-C.

(2) Approve providers of education support services.

(3) Adopt standards, procedures and guidelines to be used to approve providers of education support services under this article.

(4) Award grants to a grant recipient in an amount not to exceed \$500 per fiscal year for each eligible student.

(5) Establish minimum qualifications for individuals utilized by providers of education support services.

(6) Establish periods during which applications will be reviewed to accommodate the dates when results of approved eligibility tests become available.

Section 10. Section 1505-C of the act, amended June 29, 2002 (P.L.524, No.88), is reenacted to read:

Section 1505-C. Providers.

A prospective provider shall submit an application to the department for approval to provide education support services under this article. The application shall include a description of the services to be provided, the cost of the services, the qualification of all individuals providing those services, including evidence of compliance with section 111 and with 23 Pa.C.S. § 6355 (relating to requirement), and such other information as may be required by the department.

Section 11. Sections 1506-C, 1507-C, 1508-C, 1509-C, 1510-C and 1511-C of the act, added May 17, 2001 (P.L.4, No.4), are reenacted to read:

Section 1506-C. Notification of program.

A school entity in this Commonwealth with students enrolled in third, fourth, fifth or sixth grade shall notify parents of the availability of education support services at such time as the parents receive the results of any eligibility test.

Section 1507-C. Payment of grants.

(a) Certificates.—A certificate for education support services under this article shall be issued by the department in an amount authorizing up to \$500 for each eligible student identified on the certificate. The certificate shall be issued to the grant recipient and shall be valid only for the fiscal year in which it is issued. After receiving the certificate from a grant recipient, the provider shall include the following information on the certificate: name of eligible student served, type of instruction, date and length of instruction and cost of instruction provided to the eligible student. When the amount of the certificate has been utilized or when the eligible student is no longer receiving education support services from the provider, the provider shall return the completed certificate to the grant recipient for submission to the department for payment. The department shall make payment directly to the grant recipient for the amount due. Grant recipients must send all outstanding certificates to the department for payment no later than 90 days after receiving the completed certificate from the provider.

(b) Penalty for grant recipients.—A grant recipient who knowingly defrauds the Commonwealth by receiving reimbursement for education support services not rendered to the eligible student and grant recipient identified on the certificate commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 per violation and shall be disqualified from eligibility for an additional grant for a period of not less than five years.

(c) Penalty for providers.—A provider that knowingly violates

section 1509-C or knowingly defrauds the Commonwealth by receiving reimbursement for education support services not rendered to the eligible student and grant recipient identified on the certificate commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 per violation and shall be barred from participation in the program for not less than five years. Section 1508-C. Limitations.

(a) Amount.—The amount of grants provided under this article in a fiscal year shall be limited to the funds appropriated for that purpose. No more than 10% of the total funds appropriated for this program in any fiscal year shall be awarded to grant recipients within a specific school district except that, if the department determines that all school entities in the Commonwealth have had an opportunity to participate in the program and that funds remain available, it may waive the 10% limitation under this subsection.

(b) Availability of funds.—In the event that the funds appropriated in any fiscal year are insufficient to provide grants to all grant recipients, grants shall be awarded on a first-come, first-served basis. The department shall hold a portion of the funds in reserve to ensure that money is available for each application period established under section 1504-C(6).

Section 1509-C. Confidentiality.

Nothing in this article shall authorize the department, a school entity or a provider to release or otherwise utilize student identifiable information or individual student test scores for purposes other than the administration of this article.

Section 1510-C. Nontaxable income.

A grant received by a grant recipient shall not be considered to be taxable income for the purposes of Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 1511-C. Applicability.

Services provided under this article do not constitute tutoring or instruction under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.

Section 12. Section 1705-B(h)(4) of the act, amended June 29, 2002 (P.L.524, No.88) and December 9, 2002 (P.L.1472, No.187), is amended to read:

Section 1705-B. Education Empowerment Districts.—* * *

(h) * * *

(4) The department may utilize up to \$2,000,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts certified as an education empowerment district under paragraph (3). There is hereby established a restricted account from which payments under this paragraph shall be paid. Funds shall be transferred by the Secretary of the Budget to the restricted account to the extent necessary to make payments under this paragraph. Funds in the restricted account are hereby appropriated to carry out the purposes of this paragraph. The subsidy payment from this account shall be utilized to supplement the operational budget of the eligible school districts. This paragraph shall apply to fiscal years 2000-2001, 2001-2002 [and], 2002-2003 and 2003-2004 and shall expire June 30, [2003] 2004.

Section 13. Section 1709-B of the act, added May 10, 2000 (P.L.44, No.16), is reenacted to read:

Section 1709-B. School Improvement Grants.—(a) The department shall establish a program of annual school improvement grants for school districts on the education empowerment list or certified as an education empowerment district to assist in the implementation of their school district improvement plans.

(b) Grants shall be limited to the amount appropriated for that purpose.

(c) Grants shall be provided annually to the school district for use as directed by the school district empowerment team or the board of control in implementing the school district improvement plan developed pursuant to sections 1703-B and 1706-B as follows:

- (1) To purchase instructional materials, including textbooks, technology and related educational materials and supplies.
- (2) To reduce class size in kindergarten through grade three.
- (3) To establish after-school, summer and weekend programs.
- (4) To establish or expand full-day kindergarten program.
- (5) To fund curriculum development.
- (6) To fund enhanced staff professional development.

(7) To fund any other program contained in the school district improvement plan.

(d) Subject to the requirements of this section, each qualifying school district shall receive a base annual grant of four hundred fifty thousand dollars (\$450,000) and an additional grant of up to seventy-five thousand dollars (\$75) per average daily membership for the prior school year of the school district. The school district or the board of control shall give priority in allocating the grant funding received under this section to the individual schools identified pursuant to sections 1703-B(b) and 1706-B(b).

(e) The department shall set forth the specific allowable uses for grant funds and place conditions, as necessary, on the use of grant funds. The department shall establish accountability procedures and auditing guidelines to ensure that grant funds are utilized in accordance with the allowable uses and conditions.

(f) A school district receiving a grant under this section shall be required to maintain separate accounts in that school district's budget to facilitate monitoring the use of these grant funds. In no case shall a school district use more than five per centum of the grant funds for administrative costs.

(g) The department shall reduce the amount of a State subsidy payment to a school district by the amount of any grant funds provided under this section if the school district does not use the grant funds in accordance with the allowable uses and conditions set forth by the department.

Section 14. Section 1714-B(g) of the act, added May 10, 2000 (P.L.44, No.16), is amended to read:

Section 1714-B. Mandate Waiver Program.—* * *

(g) The following provisions of this act shall not be subject to waiver pursuant to this section: sections 108, 110, 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1, 443, 510, 513, 518, 527, 687, 688, 701.1, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1303(a), 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361, 1366, 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546 and 1547; provisions prohibiting discrimination; Articles VI, XI, XI-A, XII, XIII-A, XIV and XVII-A and this article.

* * *

Section 15. The definitions of "educational improvement organization" and "scholarship organization" in section 2002-B of the act, added May 17, 2001 (P.L.4, No.4), are amended to read: Section 2002-B. Definitions.

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

* * *

"Educational improvement organization." A nonprofit entity which:

- (1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

- (2) contributes at least 80% of its annual receipts as grants to a public school for innovative educational programs.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts when it expends or otherwise irrevocably encumbers those funds for expenditure during the then current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

* * *

"Scholarship organization." A nonprofit entity which:

- (1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

- (2) contributes at least 80% of its annual cash receipts to a scholarship program.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts to a scholarship program when it expends or otherwise irrevocably encumbers those funds for distribution during the then current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

* * *

Section 16. Section 2502.8 of the act, amended June 22, 2001 (P.L.530, No. 35), is reenacted to read:

Section 2502.8. Payments on Account of Pupils Enrolled in Vocational Curriculums.—(a) For the purpose of reimbursement in accordance with this section, vocational curriculums are agriculture education, distributive education, health occupations education, home economics education (gainful), business education, technical education, trade and industrial education, or any other occupational oriented program approved by the Secretary of Education.

(b) For the 1981-1982 school year through the 1984-1985 school year, each school district so entitled shall be paid, in addition to any other subsidy to which it is entitled, an amount on account of resident pupils enrolled in vocational curriculums; for the 1985-1986 school year through the 1999-2000 school year, each school district and area vocational-technical school shall be paid an amount on account of students enrolled in vocational curriculums; for the 2000-2001 school year and each school year thereafter, each school district, area vocational-technical school and charter school shall be paid an amount on account of students enrolled in vocational curriculums, determined as follows:

(1) Determine the increase in the weighted average daily membership by multiplying the number of students in average daily membership in vocational curriculums in area vocational-technical schools by twenty-one hundredths (.21) and the number of students in average daily membership in school district and charter school vocational curriculums by seventeen hundredths (.17).

(2) Multiply the lesser of the district's actual instruction expense per weighted average daily membership or the base earned for reimbursement by the market value/income aid ratio or by three hundred seventy-five thousandths (.375), whichever is greater.

(3) Multiply the increase in weighted average daily membership determined in clause (1) by the result of clause (2).

(4) For the 1985-1986 through 1999-2000 school years, the Commonwealth shall pay the amount required by this section to the school district or area vocational-technical school which provides the program upon which reimbursement is based.

(5) For the 2000-2001 school year and each school year thereafter, the Commonwealth shall pay the amount required under this section to the school district, area vocational-technical school or charter school which provides the programs upon which reimbursement is based.

(c) For the school year 1998-1999, any additional funding provided by the Commonwealth over the amount provided for the school year 1997-1998 will be distributed to area vocational-technical schools and to school districts with eight (8) or more vocational programs based on subsection (b).

(d) For the school year 1999-2000, any additional funding provided by the Commonwealth over the amount provided for the school year 1998-1999 will be distributed to area vocational-technical schools, to school districts with eight (8) or more vocational programs and to school districts offering a vocational agricultural education program, based on subsection (b).

(e) For the school year 2000-2001 and each school year thereafter, any additional funding provided by the Commonwealth over the amount provided for the school year 1998-1999 will be distributed to area vocational-technical schools, to school districts and charter schools with eight (8) or more vocational programs and to school districts and charter schools offering a vocational agricultural education program based on subsection (b).

Section 17. Section 2502.13 of the act, amended June 29, 2002 (P.L.524, No.88), is amended to read:

Section 2502.13. Small District Assistance.—(a) For the 1984-1985 and 1985-1986 school years, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to fifty dollars (\$50) multiplied by that district's average daily membership. For the 1985-1986 school year, no school district shall receive less on account of this section than it did for the 1984-1985 school year. For the school year 1986-1987, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1985-1986 school year, an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily

membership. For the school year 1987-1988, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1986-1987 school year, an amount equal to eighty-five dollars (\$85) multiplied by that district's average daily membership. For the school year 1988-1989, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 or 1988-1989 school year, an amount equal to one hundred five dollars (\$105). For the school year 1989-1990, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 school year, an amount equal to one hundred fifteen dollars (\$115) multiplied by the district's average daily membership as provided for in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990." For the school year 1990-1991, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the prior school year, an amount equal to one hundred seventy dollars (\$170) multiplied by that district's average daily membership. For the school year 1990-1991, each school district with a population per square mile of less than ninety (90), which otherwise meets the average daily membership and market value/income aid ratio requirements of this section, or received payments under this section for the prior school year, shall instead receive an amount equal to one hundred ninety dollars (\$190) multiplied by that district's average daily membership. For the 1987-1988 school year through the 1990-1991 school year, no school district shall receive less on account of this section than it did for the prior school year. For the school year 1994-1995, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to ninety five dollars (\$95) multiplied by that district's average daily membership. For each of the school years 1997-1998 through 1999-2000, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership. For the school years 2000-2001 [and], 2001-2002 and 2002-2003, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership.

(b) For school year 2002-2003, the Commonwealth shall calculate an amount to be used for property tax reduction in 2003-2004 under Article VI-A each school district which has a modified average daily membership of one thousand (1,000) or less an amount equal to five thousand four hundred ninety dollars (\$5,490) times twenty percent (20%) of the school district's modified average daily membership times its market value/income aid ratio. For the purposes of this section, modified average daily membership is calculated by subtracting the product of one-half (0.5) times the sum of the half-time and full-time kindergarten average daily membership from the school district's average daily membership.

Section 18. The act is amended by adding a section to read:

Section 2502.41. Basic Education Funding 2002-2003; Property Tax Relief 2003-2004.—(a) For the 2002-2003 school year, the Commonwealth shall calculate an amount for each school district which shall be used for property tax reduction in 2003-2004 pursuant to Article VI-A, except that in school districts of the first class the amount shall be used for resident and nonresident wage tax reduction in 2003-2004. The amount available for tax reduction in each school district shall equal the foundation funding, adjusted for minimum and maximum property tax reduction percentages, minus the basic education

funding allocation for the 2001-2002 school year pursuant to sections 2502.13 and 2502.40. The amount of funds identified for property tax and wage tax reduction shall be placed in the Property Tax Relief Trust Fund. The foundation funding shall consist of:

(1) A base supplement calculated by multiplying the foundation grant amount of five thousand four hundred ninety dollars (\$5,490) times the school district's 2002-2003 modified average daily membership times its 2003-2004 market value/income aid ratio. The modified average daily membership shall be calculated by subtracting the product of one-half (0.5) times the sum of the half-time and full-time kindergarten average daily membership from the school district's average daily membership.

(2) A limited English proficiency supplement calculated by multiplying the foundation grant amount of five thousand four hundred ninety dollars (\$5,490) times twenty-five percent (25%) of the school district's 2002-2003 number of limited English proficiency students times its 2003-2004 market value/income aid ratio.

(3) A poverty supplement calculated for qualifying school districts as follows:

(i) If its 2001 personal income per modified average daily membership is equal to or less than eighty-five thousand dollars (\$85,000), multiply six hundred fifteen dollars (\$615) times its modified average daily membership.

(ii) If its 2001 personal income per modified average daily membership is greater than eighty-five thousand dollars (\$85,000) and equal to or less than one hundred thousand dollars (\$100,000), multiply one hundred fifty dollars (\$150) times its modified average daily membership.

(iii) If its 2001 personal income per modified average daily membership is greater than one hundred thousand dollars (\$100,000) and equal to or less than one hundred fifteen thousand dollars (\$115,000), multiply seventy-five dollars (\$75) times its modified average daily membership.

(4) An amount as necessary so that the sum of the amounts under section 2502.13(b) and clauses (1), (2) and (3) and this clause shall equal the amount received in its 2001-2002 basic education funding allocation pursuant to sections 2502.13 and 2502.40.

(5) An amount for small district assistance for the 2002-2003 school year pursuant to section 2502.13(b).

(b) Adjustments for minimum and maximum property tax reductions pursuant to Article VI-A shall be calculated as follows:

(1) If the school district's 2003-2004 market value/income aid ratio is equal to or greater than four thousand five hundred ten thousandths (0.4500) an amount shall be provided as necessary such that the amount available for property tax reduction shall not be less than thirty percent (30%) of the residential property taxes. For the purpose of this section, the residential property taxes shall be calculated by multiplying the total property tax amount as reported by the school district on its 2001-2002 annual financial report by the percent of assessed valuations attributable to residential properties as certified by the State Tax Equalization Board.

(2) If the school district's 2003-2004 market value/income aid ratio is less than four thousand five hundred ten thousandths (0.4500) an amount shall be provided as necessary such that the amount available for property tax reduction is not less than fifteen percent (15%) of the property taxes.

(3) If the amount available for property tax reduction is greater than sixty percent (60%) of the property taxes, the amount available shall be adjusted so that the property tax reduction equals sixty percent (60%).

(c) For the 2002-2003 school year, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:

(1) An amount equal to the basic education funding allocation for the 2001-2002 school year pursuant to sections 2502.13 and 2502.40.

(2) A base supplement calculated as follows:

(i) Multiply the school district's 2003-2004 market value/income aid ratio by its 2002-2003 average daily membership.

(ii) Multiply the product from subparagraph (i) by fifty million dollars (\$50,000,000).

(iii) Divide the product from subparagraph (ii) by the sum of the products of the 2003-2004 market value/income aid ratio multiplied by

the 2002-2003 average daily membership for all school districts.

(3) A poverty supplement calculated for qualifying school districts as follows:

(i) To qualify for the poverty supplement, a school district's 2003-2004 market value/income aid ratio shall be equal to or greater than 0.6500 and its 2001 personal income valuation when divided by its 2002-2003 average daily membership shall be equal to or less than one hundred three thousand five hundred seventy-one dollars (\$103,571).

(ii) The poverty supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the school district's 2002-2003 average daily membership by thirty million dollars (\$30,000,000).

(B) Divide the product from clause (A) by the sum of the 2002-2003 average daily membership for all qualifying school districts.

(4) A tax effort supplement calculated for qualifying school districts as follows:

(i) To qualify for the tax effort supplement, a school district's 2001-2002 equalized millage must be equal to or greater than 20.6 equalized mills.

(ii) The tax effort supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the school district's 2002-2003 average daily membership by fifteen million dollars (\$15,000,000).

(B) Divide the product from clause (A) by the sum of the 2002-2003 average daily membership for all qualifying school districts.

(5) A growth supplement calculated for qualifying school districts as follows:

(i) To qualify for the growth supplement, a school district's 2002-2003 average daily membership must be greater than its 2001-2002 average daily membership.

(ii) The growth supplement shall be calculated for qualifying school districts as follows:

(A) Subtract the school district's 2001-2002 average daily membership from its 2002-2003 average daily membership.

(B) Multiply the difference from clause (A) by five million dollars (\$5,000,000).

(C) Divide the product from clause (B) by the sum of the differences from clause (A) for all qualifying school districts.

(6) Each school district shall receive additional funding as necessary so that the sum of the amounts under section 2502.13(a) and under paragraphs (2), (3), (4), (5) and this paragraph will equal at least two percent (2%) of the amount in paragraph (1).

Section 19. Sections 2509.1 and 2509.5 of the act are amended by adding subsections to read:

Section 2509.1. Payments to Intermediate Units.—***

(b.11) Up to nine million five hundred thousand dollars (\$9,500,000) may be utilized for programs administered and operated by intermediate units during the 2003-2004 school year for institutionalized children as established in subsection (b.1).

Section 2509.5. Special Education Payments to School Districts.—**

(ll) During the 2003-2004 school year, each school district shall be paid the amount it received during the 2002-2003 school year under subsection (kk).

(mmm) During the 2003-2004 school year, thirty-six million one hundred forty-nine thousand five hundred eighty-seven dollars (\$36,149,587) of the funds appropriated to the Department of Education for special education shall be used to provide supplemental funding for special education to all school districts. The supplemental funding shall be calculated as follows:

(1) multiply each school district's 2003-2004 market value/income aid ratio by sixteen per centum (16%) of its 2002-2003 average daily membership;

(2) multiply the product from paragraph (1) by thirty-six million one hundred forty-nine thousand five hundred eighty-seven dollars (\$36,149,587); and

(3) divide the resultant product from paragraph (2) by the sum of the products of the 2003-2004 market value/income aid ratio multiplied by sixteen per centum (16%) of the 2002-2003 average daily membership for all school districts.

Section 20. Section 2509.8 of the act, amended June 30, 1995

(P.L.220, No.26) and May 10, 2000 (P.L.44, No.16), is amended to read:

[Section 2509.8. Extraordinary Special Education Program Expenses.—(a) The Department of Education shall, for the 1991-1992 school year, the 1994-1995 school year and each school year thereafter, set aside one percent (1%) of the State special education appropriation for extraordinary expenses to be incurred in providing a special education program or service to one or more students with disabilities as approved by the Secretary of Education.

(b) (1) Subject to the limitation in clause (2), the Department of Education shall, for the 1992-1993 and 1993-1994 school years, set aside two percent (2%) of the State special education appropriation for extraordinary expenses incurred in providing special education programs or services to one or more students with disabilities as approved by the Secretary of Education.

(2) In the 1992-1993 school year, only one-half of the two percent (2%) set aside may be expended immediately, and the other one-half of the amount set aside shall not be expended until all authorized expenditures under sections 2509, 2509.1, 2509.5, 2509.9 and 2509.10 have been made to the qualified school entities.

(c) The Secretary of Education shall establish guidelines for the application, approval, distribution and expenditure of these funds and shall report annually to the General Assembly on such expenditures.

(d) For the 2000-2001 school year and each school year thereafter, the Department of Education shall set aside two per centum (2%) of the special education appropriation for extraordinary expenses incurred in providing a special education program or service to one or more students with disabilities as approved by the Secretary of Education.]

Section 21. Section 2591.1 of the act, added June 29, 2002 (P.L.524, No.88), is amended to read:

Section 2591.1. Commonwealth Reimbursements for Charter Schools and Cyber Charter Schools.—(a) For the 2001-2002 school year, the Commonwealth shall pay to each school district with resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined pursuant to Article XVII-A an amount equal to thirty percent (30%) of the total funding required under section 1725-A(a).

(b) For the 2002-2003 school year, the Commonwealth shall pay to each school district that received funding under subsection (a) for the 2001-2002 school year and that had resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined under Article XVII-A during the 2002-2003 school year an amount equal to the lesser of:

(1) the payment received for the 2001-2002 school year pursuant to subsection (a); or

(2) thirty percent (30%) of the total funding required under section 1725-A(a).

(c) For the 2002-2003 school year, the Commonwealth shall pay to each school district that did not receive funding under subsection (a) for the 2001-2002 school year and that had resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined under Article XVII-A during the 2002-2003 school year an amount equal to thirty percent (30%) of the total funding required under section 1725-A(a).

(d) If insufficient funds are appropriated to make Commonwealth reimbursements under this section, the reimbursements shall be made on a pro rata basis.

Section 22. The following amounts are hereby appropriated from the General Fund to the Department of Education for the fiscal period July 1, 2003, to June 30, 2004, as follows:

(1) The sum of \$25,000,000 is hereby appropriated for payments to any school district of the first class which has been declared distressed pursuant to section 691(c) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, provided that such school district submits a quarterly itemization of all Federal, State and local funds distributed to each school in the school district, including schools governed by agreements currently in effect pursuant to section 696(i)(2) of the

Public School Code of 1949 and schools designated as partnership schools under the School Reform Commission Resolution Number 10 of April 17, 2002, to the Department of Education and to the chairman and minority chairman of the Education Committee of the Senate and to the chairman and minority chairman of the Education Committee of the House of Representatives. If the Department of Education determines that the report is not being submitted in accordance with the requirements of this paragraph, the Department of Education shall withhold from any and all payments to which that school district of the first class may be entitled under the act an amount equal to the funds received from this appropriation.

(2) The sum of \$56,762,000 is hereby appropriated for payments on account of vocational education as provided for under section 2502.8 of the Public School Code of 1949, provided that any amounts expended by the Department of Education pursuant to the former State appropriation in the amount of \$55,378,000 for vocational education under section 212 of the act of March 20, 2003 (P.L. , No.1A), known as the General Appropriation Act of 2003, shall be deducted from the sum appropriated in this paragraph.

(3) The sum of \$896,177,000 is hereby appropriated for payments on account of special education of exceptional children, provided that this amount includes \$563,000 for community support services which is not to be included in the base calculations of the special education program components, and provided further that this amount includes \$500,000 for payments to Pennsylvania charter schools for the deaf and blind, and provided further that this amount includes \$500,000 for special education-approved private schools, and provided further that any amounts expended by the Department of Education pursuant to the former State appropriation in the amount of \$874,319,000 for payments on account of special education of exceptional children under section 212 of the General Appropriation Act of 2003 shall be deducted from the sum appropriated in this paragraph.

(4) The sum of \$4,204,406,906 is hereby appropriated for basic education funding to school districts, provided that the Secretary of Education, with the approval of the Governor, may make payments from this appropriation in advance of the due date prescribed by law to school districts which are financially handicapped whenever the Secretary of Education shall deem it necessary to make such advance payments to enable the school districts to keep their schools open.

(5) The sum of \$25,380,000 is hereby appropriated for school improvement grants as provided for under section 1709-B of the Public School Code of 1949.

(6) The sum of \$15,000,000 is hereby appropriated for education support services as provided for under Article XV-C of the Public School Code of 1949.

(7) The sum of \$73,991,328 is hereby appropriated for services to nonpublic schools as provided under section 922.1-A of the Public School Code of 1949, provided that any amounts expended by the Department of Education pursuant to the former State appropriation in the amount of \$71,976,000 for services to nonpublic schools under section 212 of the General Appropriation Act of 2003, shall be deducted from the sum appropriated in this paragraph.

Section 23. As much as relates to the State appropriations in the amount of \$55,378,000 for vocational education and in the amount of \$874,319,000 for payments on account of special education of exceptional children, and in the amount of \$71,976,000 for services to nonpublic schools in section 212 of the act of March 20, 2003 (P.L. , No.1A), known as the General Appropriation Act of 2003, is repealed.

Section 24. This act shall take effect July 1, 2003, or immediately, whichever is later.

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

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

Senator MELLOW. Madam President, last Tuesday, in a meeting of the Senate Committee on Appropriations, which was held in the Rules room, Senate Bill No. 100 was brought up for discussion and final consideration by the Committee on Appropriations so that we could report it out to the floor of the Senate. During the deliberation, Madam President, on consideration of the bill, a number of things took place. One of the things that took place during that deliberation was a challenge by the President pro tempore of the Senate, Senator Jubelirer, to the Democratic Members of the Committee on Appropriations, that if we did not like the proposal that he had presented to the Members of the Committee on Appropriations, then we should come up with our own proposal that would do something to reduce property taxes and that would also come up with a revenue enhancer to pay for this reduction of property taxes. So basically, we took Senator Jubelirer's advice and we came up with what we feel is a very comprehensive, very important amendment and an alternative to the proposal that is encompassed in Senate Bill No. 100.

Now, Madam President, it is important for us to note right from the outset that Senate Bill No. 100 in its form does not reduce anyone's taxes by one penny. Senate Bill No. 100 is basically a clone of Act 50 which passed this Chamber several years ago, and it mandates that school districts, the 501 school districts in Pennsylvania, will have to put a question on the ballot in this upcoming election year, November of this year. And, by and large, Madam President, paraphrasing, that question would deal with the fact that do people in the district, in that particular district, do they want to increase their earned income tax for the purpose of reducing the property tax for funding public education? So what we did was take a proposal that we thought was important. I do not think there is one Member in this Chamber who is opposed to reducing property taxes for the purpose of funding public education. I think it is a matter of how we get there, and the way we look at Act 50 is the same way we look at Senate Bill No. 100. We view them as nothing more than a clone of one another. Act 50 was not responsive to the request of the people of Pennsylvania by implementing a program that would reduce property taxes. Senate Bill No. 100 goes just one step further, Madam President. It mandates that every school district of Pennsylvania must put the question on the ballot as to whether or not they would like their earned income tax increased for the purpose of reducing their property taxes, and with the exception of several school districts that do not have to comply with this act, all 501 school districts must do that. Now, there are several school districts that do not have to comply with the act, Madam President, and the school district of Pittsburgh does not, nor does the city of Philadelphia, nor do the cities of Allentown and Harrisburg, plus any of the school districts that prior to this had enacted Act 50, of which I believe there are four. So the school districts that do not have to comply with Senator Jubelirer's proposal as proposed in Senate Bill No. 100 are the city of Philadelphia, with 341,000 households; the city of Pittsburgh, with 75,417 households; the distressed districts of Chester-Upland, with 7,700 households and Duquesne, with 1,600 households. Then you have the empowerment districts of Aliquippa, Allentown City, Clairton, Harrisburg, Lancaster, Steelton-Highspire, Sto-Rox, Wilkesburg, and York, they also

do not have to qualify, do not have to put the question on the ballot. Then if you add to that the districts that already have put the question on the ballot and actually have tried to adopt Act 50, of which there are only 4, 4 of the 501 school districts, they are Southern Columbia, Central Dauphin, Williamsport, and Hazleton.

So, Madam President, in the proposal that is before us that is under consideration in Senate Bill No. 100, there are 544,202 households, or approximately 15.6 percent of the households in this great State of ours, that do not have to comply with Senate Bill No. 100. Madam President, there are 3.4 million households in Pennsylvania, and 544,000 of those households would not have to comply with Senator Jubelirer's proposal under Senate Bill No. 100, which means they have no chance whatsoever of having their property taxes reduced based on the enactment of Senate Bill No. 100.

Now also, Madam President, there is a major difference in what Senator Jubelirer has presented and what was presented by Governor Rendell in his proposal. Senator Jubelirer's proposal in Senate Bill No. 100 talks about increasing the earned income tax as opposed to increasing a personal income tax that was shown in Governor Rendell's proposal. Now that is the main difference.

Madam President, can we have order in the Chamber? This is a very important issue, and I would appreciate it, if there are going to be sidebar conferences, that they take place off the floor of the Senate.

The PRESIDENT. The Senate will come to order. You may continue, Senator Mellow.

Senator MELLOW. Thank you, Madam President. This is a very important issue, and with the type of noise that has been in this Chamber, it is extremely hard for individuals and Members, I believe, to try to comprehend and to discuss the importance of such an issue on hopefully a bipartisan basis.

Madam President, I started saying the difference between the earned income tax and the personal income tax is that an earned income tax has exclusions to it, exemptions to it. It gives people who can shelter or who can hide income the opportunity not to have to pay income under the earned income tax. Under a personal income tax, you must pay your tax to the Commonwealth of Pennsylvania on the money that you have earned. It does not give you an opportunity to shelter money through investments, dividends, or interest. If you have income in Pennsylvania, under the personal income tax, you must pay from the first dollar. Under an earned income tax, as being advanced and advocated in Senate Bill No. 100, there are exclusions, there are loopholes, there are ways for those individuals with means to be able to divert earned income where they will not have to comply, under Senator Jubelirer's proposal as encompassed in Senate Bill No. 100.

Madam President, if I can give you an example, under the proposal that is before us, if an individual is a sole proprietor or partnership and that individual is obviously self-employed, that individual, to defer income under this proposal, can establish a business in two ways. He can establish his business, and let us hypothetically say it is an insurance agency. That insurance agent can establish two different businesses for the purpose of participating in the loophole that has been established under an earned income tax payment. That person can establish their own

realty company, and in establishing their own realty company, they can rent all of the realty assets to their business, to their insurance agency. And the insurance agency would once a month, or once every 6 months, or once a year, issue a check for the payment of the rental of that equipment or the building to the realty company. The money that is earned by the realty company, Madam President, is not considered to be earned income. That is unearned income. That is income on investments, similar to what Senator Jubelirer's Senate Bill No. 100 encompasses, so there is a significant loophole here where an individual, an individual who is making money as an insurance agent, has now made money also in their realty business, will only have to pay, based on what is in Senate Bill No. 100, on the money that they earned in the business, not the money that they earned in their realty business. If you paid your tax in this proposal on the personal income tax rate, that individual would have to pay the money they have earned on their business and the money they have earned on their realty business, they would have to put them together and pay taxes on the full amount of money. Instead, in this particular proposal, Senate Bill No. 100, there is a significant loophole in here that people can take advantage of, that they will not have to pay that particular income. The statistics show that people with an income of over \$160,000 a year can shelter 31 percent of that income through investments, through dividends, through interest, and through investment income. The poor individual, the poor Joe and Mary Six-pack who go to work every day get paid on a W-2, and they have no way of deferring any income, they will have to pay their earned income tax on every dime that they have actually earned and have paid through the W-2.

Now, Madam President, to further try to amplify what some of the problems are with the bill and how our amendment will ratify that and will straighten that out, our amendment is very simple. It will ultimately, the amendment would not do it because this is an Education Code, but it will ultimately request an increase in personal income tax of .4 percent. It also will ultimately have to increase some other taxes. There are some other taxes that were under consideration for the purpose of fully funding this particular proposal. But the important and the main tax would be to increase personal income tax, not earned income, to increase personal income tax by .4 percent for every taxpayer in Pennsylvania.

Now, Madam President, just to take a few districts, based on the information that has been given to us by the Senate Republican Policy Development and Research Office dated June 3, the difference between what people would have to pay in school districts under Senate Bill No. 100, as advanced in its current status, and what they would pay in the proposal that we have offered as an alternative amendment, working in a good spirit in a cooperative nature is significant, Madam President, and I will give you a few examples of school districts. In Gettysburg School District, under Senate Bill No. 100 as it currently exists, the property tax reduction under the Republican plan in Senate Bill No. 100, if it is fully implemented based on Senator Jubelirer's homestead exemption and his proposal of 100-percent financing of the homestead, they would have a property tax reduction, under the Republican plan, of \$657. Gettysburg School District, Madam President, under the

Democratic plan, which is basically the same plan as advanced by Governor Rendell, would have a reduction in their property taxes of \$385. But here is where the difference takes place, Madam President. Based on the plan that has been offered by Senator Jubelirer, the earned income tax increase, not the total earned income tax, but the earned income tax increase in the Gettysburg School District would be 1.8 percent. The earned income tax increase under the Senate Democratic plan in taxing personal income tax would be .4 percent.

Now, if you follow that through and take a family with two incomes, two people working, earning \$60,000 a year, under Senator Jubelirer's plan that same family, in increased taxation on earned income, would pay \$1,080, based on an increase of 1.8 percent. Now you have to follow through, if you will, if you are in the Gettysburg School District, you already have a .5-percent earned income tax on your wage, so your total tax in the Gettysburg School District now would be 2.3 percent to pay for this tax reduction as advocated by Senator Jubelirer. If you follow through on the plan that we have that says that the earned income, the Pennsylvania income tax, would be increased by .4 percent, a family with a \$60,000 income would pay an increase in tax of \$240. The net tax increase for an individual, under Senator Jubelirer's plan, in the Gettysburg School District will be \$423. Very simply, you take the \$657 tax reduction that Senator Jubelirer would give them, you take the \$1,080 increase that Senator Jubelirer would charge them with his earned income, you subtract the two and the difference is \$423 more that it would cost the taxpayer--

Madam President, I ask for the indulgence of the Senate. I realize it is late, but we got started late on the issue today and this is something that is very important to every one of us. I will follow through more on the example of the Gettysburg School District. By subtracting the amount of money they would be given in a reduction under Senate Bill No. 100 from the increase that they would pay of 1.8 percent in their earned income, they would end up paying \$423 more taxes under this plan than they would under our plan. Under our plan, Madam President, the tax reduction would be \$385. The extra amount of money they would have to pay in by paying .4 of 1 percent in personal income tax would be \$240. The net savings to the taxpayer in the Gettysburg School District, under our plan, would be \$145. The net increase in taxation in the Gettysburg School District, under Senator Jubelirer's plan, would be \$423. So if you add them together, Madam President, and blend them together, you really have an increase of \$423 under Senator Jubelirer's plan and a loss of \$145 by not going into our plan, which means that there would be a net impact of \$567 for every homestead owner, every owner in the Gettysburg School District.

Madam President, I can go on and on and talk about it, but I am going to give you the one that probably is the most significant, because the one that is probably most significant is the one that is represented by me, Senator Musto, and Senator Boscola on this side of the aisle, and Senator Dent, Senator Rhoades, and Senator Lemmond, and that is the Pocono Mountain School District, which is impacted the most by Senator Jubelirer's plan, once again as given to us by the information put out by the Senate Republican Policy and Development Research Office. The Pocono Mountain School District, Madam President,

would have an increased taxation on their earned income under this plan of 5.6 percent. The Pocono Mountain School District property tax reduction, under the Republican plan, would be \$1,782. The property tax reduction for the Pocono Mountain School District under our plan of .4 of 1 percent would be \$1,803, Madam President. The Senate Democrat's rate of increased taxation in the Pocono Mountain School District would be .4 of 1 percent, because the taxation would be on personal income tax. Under Senator Jubelirer's plan of Senate Bill No. 100, with a 100-percent implementation of the homestead exemption, the tax there would be 5.6 percent. Following it through, if you would take the same \$60,000 family income and multiply that by our percentage of .4 of 1 percent, the family would pay an increase of \$240 per year. Under Senator Jubelirer's proposal, that same family would pay \$3,360 more in earned income tax than they will get in their tax reduction.

It just does not make sense, Madam President. We are all in favor of tax reduction. We all want tax reduction. We do not want another promissory note. We do not want to go through again what took place in Act 50. Act 50 did not work, and the only difference, basically, between Act 50 and what we are talking about right here, Madam President, in Senate Bill No. 100 is to make it mandatory by putting it on the ballot.

Furthermore, Madam President, our amendment benefits taxpayers in one other way, because we are saying to those taxpayers, just in case you are in a district that does not benefit to your liking by our proposal of increasing your personal income tax by .4 of 1 percent, the question then will also go on the ballot, and if your school board wants to ratify it, then your school board can further reduce the taxes by implementing the earned income tax credit that would be given under Senator Jubelirer's plan to increase the rate of earned income tax in the school districts to further reduce property taxes, if the school board, in their wisdom, thought it was the right thing to do, once the people ratified the question on the ballot.

Madam President, to sum it up, our amendment, our plan gives immediate relief to the property tax owners of Pennsylvania for the purpose of funding education. It does it immediately. It does it in this school year. In this fiscal year for school districts, which will begin July 1, it gives an immediate reduction in school districts. I just mentioned Gettysburg, which would have a reduction immediately of \$385. Altoona School District would have a reduction of \$130. Berwick School District would have a reduction of \$528 under the Rendell plan, and under Senate Bill No. 100, a reduction of only \$353. Forest City School District in Susquehanna would have a reduction of \$599 under our plan, and only a promised reduction, if the ballot question is ratified, of \$332 under the plan as advocated in Senate Bill No. 100, and it goes on and on, Madam President.

We want to bring about immediate tax relief to the overburdened taxpayers in Pennsylvania. We do not want to give them a promissory note. We are not opposed to what Senator Jubelirer wants to do in further reducing taxes through an earned income tax. However, we feel that is highly discriminatory to the working men and women of Pennsylvania, and it is very favorable for those individuals who, because of their business opportunities, or for whatever other reasons they may have, can shelter and hide money. It is not illegal to hide money, it is a

matter of taking advantage of loopholes. And the difference between an earned income tax in Pennsylvania and the personal income tax is to take advantage of loopholes.

Now, if Senator Jubelirer offered an amendment that said that the earned income tax will also include dividends, interest, and investment income, then we could say, well, at least this is a step in the right direction. We would not be sheltering income for those privileged few who can afford to do that at the expense of the poor individuals in this Commonwealth, Madam President, who cannot afford to do that. This is an unfortunate thing. We have a lot of other things that we can talk about, Madam President, including the fact that under our plan, every senatorial district except one has substantial savings. Every senatorial district except one can go to their school districts and say they can immediately guarantee their people a significant reduction of property taxes. We can do that under the amendment. That cannot be done under Senate Bill No. 100, and for that reason, Madam President, I request an affirmative vote on the amendment to Senate Bill No. 100.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Orie has returned, and her legislative leave will be cancelled.

And the question recurring,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, first of all, I commend Senator Mellow for coming up with a plan. It is a plan that we cannot support, but I certainly think it is very healthy, not only for this body, but for the people of Pennsylvania to see the difference in the various plans. We appreciate the fact that they support Senate Bill No. 100 and put their plan on top of it and do not change Senate Bill No. 100. That is something that I think is very positive. Certainly, Senate Bill No. 100 is really not Act 50 at all. Senator Mellow is correct in that we mandate that there be a front-end referendum. Every local taxpayer in a school district gets an opportunity to voice his or her opinion at the ballot box, which we think is an important part of the taxpayer being a partner with the local school district, but this has nothing to do with nuisance taxes, as did Act 50. This indeed reduces property taxes dollar for dollar, property taxes, not nuisance taxes, and uses the homestead exemption to do that.

Madam President, there is a significant difference in our plan. If you vote for the Mellow amendment, you are voting for a \$1 billion personal income tax increase. Let me repeat that. If you vote for the Mellow plan, you are voting for a \$1 billion personal income tax increase. Senator Mellow, Madam President, mentioned a mutual friend of ours, someone whom everyone in this body always seems to quote, a fellow by the name of Joe Six-pack. We all like Joe Six-pack, and we all want to look out for Joe Six-pack. Well, when you put that beer tax on, Joe Six-pack is the first guy who is going to complain, and Senator Mellow's plan offers us taxes on beer.

The next thing it offers us new taxes on are phone taxes, cell phone taxes, and we have to pay new taxes on that. And then he

offers a plan where we have revenue uncertainty. We do not know if there is going to be additional revenue from gambling or not. At this point, that remains uncertain. It certainly has not passed the Senate or the House, and we really do not know if that source of revenue is going to be there at all.

Madam President, there are 311 loser school districts under the Mellow amendment. They are not the winning combination as he would suggest. They use the households as their barometer, and never before have I ever seen households used. Certainly, the taxpayers in school districts do not have the same count as do households. I have no idea how you do this. Madam President, in 1989, the people of Pennsylvania voted down Governor Casey's tax reform plan by a 3 to 1 margin. Over 70 percent voted against it. It used the personal income tax, and one of the major issues in that referendum was the personal income tax. Senior citizens overwhelmingly rejected that plan because it did indeed tax their dividends and tax their extra income and their Social Security, and so forth. I do not think that is really what we want to do.

What we have done is tried to keep this local. One size does not fit all. Every district, every school district has an opportunity to decide whether they want to do this or not. There is a mandated front-end referendum which would go on the ballot, the language is in the bill, go on the ballot this November in the general election as to whether the taxpayers of the school district want to exchange local property taxes for an increased earned income tax based on the homestead exemption. That is all it is, Madam President. We think that the taxpayers of Pennsylvania and the various school districts have every right to have a say in how they are going to be taxed. It is local versus State. This strictly stays within the locals. Some 43 other States use a back-end referendum, and we are very pleased that again, the Mellow amendment does not destroy that back-end referendum. But, Madam President, to have the taxpayers as your partner is not the worst thing when it comes to local taxes. It has been castigated by others who insist on having control, but again, in other States it works and it works very well. And if the school district goes beyond what the exceptions would allow and wants to raise taxes after the referendum, then indeed they have to make their case to the taxpayers.

Madam President, I think this amendment, as we looked at it, has numerous technical and substantive problems. It gives us a revenue source that is uncertain, and it provides massive new State taxes that every taxpayer in Pennsylvania is going to have to pay if this were to pass. I do not think the taxpayers of Pennsylvania are ready for a billion dollar tax increase in their income tax. I do not think they want to pay the beer taxes or the phone taxes, but certainly the massive State tax increase is something that I have heard of in my school districts in my senatorial district, and people are saying do not do this. We have seen probably the worst example of budgeting in the State of California that any rating service can give. One of the things that they said in California was that they continued spending on a significant level when indeed the economy was shaky and the California economy particularly was in deep trouble. We are trying to be somewhat conservative in our approach to this, but by the same token, give the people of each and every school district an opportunity to have a say in having their property

taxes reduced but replacing it with an earned income tax. We are trying to give people options and keep it at the local level.

Madam President, as we approach this issue, which has been around as long as I have been around, and Senator Mellow has been here longer than I, and I suspect it has been here all that time as well, and we must, I think, be a little cautious in our approach. There are 47 States that have a deficit in this country, Madam President. Only three States have any kind of surplus. Only one has proposed massive new spending, and that is Pennsylvania. Madam President, I think there is a lesson out there for us to learn if we are to look at history. I think we need to be more cautious in our approach, and I do not think a massive new tax increase is the way to go. So if there is a vote on this, I think everybody just needs to understand there is going to be a \$1 billion tax increase on your personal income tax, which the taxpayers of Pennsylvania, each and every one of them, will pay .4 of 1 percent increase in the personal income tax. There will be additional taxes on beer, additional phone taxes, and, yes, a gaping hole because the third source is unknown at this time as to whether gambling will be indeed a source for this.

So, Madam President, I appreciate the fact that all of us are going to work hard on an issue that we are concerned about, and that is the reduction of property taxes. It is just philosophically very different as to how we approach it, how the Governor has approached it, and I respect the fact that there are other opinions. But I also believe that this is not the time to raise those State taxes, and I respectfully request a negative vote on the Mellow amendment.

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

Senator MELLOW. Madam President, I very honestly believe that anytime you take to the floor of the Senate, you must have a degree of accuracy in the things that you are saying, so as to not mislead or not be disingenuous, or not to even appear, and this goes for all of us, to be intellectually dishonest with the figures that we are talking about and how we may be trying to put a spin on a particular program. Madam President, Senator Jubelirer said that we have massive new spending if we enact the amendment that I have offered on behalf of the Democratic Caucus and on behalf of the Democratic administration. Madam President, the thing that Senator Jubelirer did not tell you in that statement is that his massive new spending is once again at the local level. It is once again the local taxpayer being asked to pick up the burden that would be placed upon them on Senate Bill No. 100 because of his massive spending, which he is going to bring upon the people of Pennsylvania if this bill passes.

Madam President, Senator Jubelirer stated that we do support Senate Bill No. 100. I want him to know clear and right upfront, without any question of equivocation, that we do not support Senate Bill No. 100 the way it is currently drafted. We only support Senate Bill No. 100 if the draft includes the amendment, the very comprehensive amendment that has been offered by our Caucus, Madam President. Another area, Madam President, where I believe there has been a gray area as stated by the previous speaker, it was stated that a vote for my amendment would be a vote to increase taxes by \$1 billion, if you vote to increase the personal income tax by .4 of 1 percent. And, Madam President, the gentleman is almost correct. To increase the

personal income tax by .4 of 1 percent means that we will have \$900 million more that will come into the State revenues for the purpose of reducing property taxes at the local level for the purpose of paying for public education. Madam President, to reduce those property taxes by \$1.5 billion, which our amendment does, we will need a tax increase in Pennsylvania of \$900 million, or .4 of 1 percent.

The thing that Senator Jubelirer did not tell you, and I guess as Paul Harvey says, the rest of the story, the thing that Senator Jubelirer did not tell you is that his proposal increases earned income tax rates to every school district by an average, by an average of .8 percent. That is piggybacked on the fact that most school districts today already have a .5-percent increase, which means that under Senator Jubelirer's proposal, the people of Pennsylvania will pay \$1.5 billion more in taxes on his earned income tax because the earned income tax rate would be, as an average, 1.3 percent. But many school districts, Madam President, are going to pay well above 1.3 percent.

Now Senator Jubelirer also said, and he repeated it on a number of occasions, that my amendment puts a tax on beer. He said I am adding a tax on wireless telephones. Madam President, the thing that Senator Jubelirer did not tell you, which I will, this is an Education Code bill, and for people who have been around here any longer than 1 day, they should understand full well that you cannot increase a tax in an Education Code bill. You can only talk about what taxes you may want to increase. You can only come up with a menu of what kind of taxes you may want to increase. You can only talk about the amount of money that it is going to cost to implement a program, but it is very disingenuous to try to have people believe here this evening that this proposal, this amendment increases one tax by one dime. It provides for the necessity of more money. We have said upfront that we think it is important to increase personal income tax by .4 of 1 percent only for the purpose of funding a reduction in property taxes for educational needs.

So there is something that is said when we are talking about things on the floor of the Senate, let us not take such latitudes that we are going to mislead people. Let us at least be open to what we are talking about. Let us lay the cards on the table. A vote for Senator Jubelirer's bill, Senate Bill No. 100 the way it currently exists, is a vote to increase the earned income tax, which is punitive to the average individual who goes to work every day and gets paid on a W-2, because there is no way that he or she can defer income. A vote for our proposal, Madam President, is to make the playing field equal for everybody, not only the individuals who are of means, who can invest money, who have interest incomes or investment incomes where they can shelter that income. What we are saying is that everybody should be on the same playing field and tax everybody on the same basis, not because I am in a position of sheltering income so I do not have to pay the earned income tax, and someone else who is not in the position of sheltering income, they have to pay the entire amount of money of earned income tax. Ours has everybody paying the same thing.

And then also, Madam President, there was an article that appeared in the Patriot-News, an op-ed piece. It said, "Push For Tax Relief Should Remain Local." And it says, and I quote, "So we gave school leaders two years to come up with a plan. If they

fail, then the taxpayers have the right to use voter initiative to force consideration of reform." It is amazing, Madam President, the author of that article was Senator Robert Jubelirer, Republican from Blair County, and Senator Melissa Hart, now Congresswoman, Republican of Allegheny County, as they were pushing for the Pennsylvania taxpayers to reduce their taxes under Act 50 of 1998. What has changed, Madam President, is the fact that school districts in this State turned down Act 50. They did not think it was in their best interest, did not like what was happening in Act 50, did not want to increase the earned income tax for the people who are in their district, realized that there would not be any immediate reduction in property taxes, once again, for the purpose of funding public education. That is the reason why they turned it down. So what do we have now? We have a sleight-of-hand performance. Now we are going to tell those districts that said, no, they do not want it, and, Madam President, so we know, I believe out of the 501 districts, there were 281 districts in the Commonwealth that brought up this question, not on a ballot, but had a study group commissioned in their school districts to decide whether they wanted to put the question on the ballot or not. And with the exception of a very few, and only four implemented, every school district turned it down, and most of them, Madam President, are in districts that are housed by elected Republican officials right here in the Pennsylvania Senate.

Now if we are about compromise, if we are about representing the best interests of the people of Pennsylvania, then we are about looking at what is right and what is wrong and what is honest and what is fact and what is fiction. Let us be upfront with our people. Let us be reasonable with what our approach is right here. We have the opportunity right here, Madam President, to give the people of Pennsylvania an immediate reduction in their property taxes if they accept our amendment, and nothing other than that is acceptable to the people of Pennsylvania. There are 49 Members of this Senate who are here today as active participants and voting Members, and every one of their school districts benefits substantially.

The other thing that Senator Jubelirer said is that under my proposal 300 school districts do not benefit. Well, nothing Senator Jubelirer said could be further from the truth. And if he looks at his own form, he will find out that it is less than 50 school districts that will not benefit, and every Republican senatorial district has substantial reductions in their property taxes. And just in case they have not had the opportunity, we did send it around to everyone, but just in case Members have not had the opportunity to read it, I am going to take the liberty to read it for you.

In the 13th Senatorial District, Madam President, represented by a Republican, \$25 million in savings. The 48th Senatorial District, Madam President, represented by a Republican, 67 percent of the households are winners at a savings of \$19.2 million. The 10th Senatorial District, Madam President--every one I read is going to be represented by a Republican--59 percent of the households in their districts have substantial savings under this proposal to a tune of \$13.7 million. In the 34th Senatorial District, Madam President, 53 percent; in the 16th Senatorial District, Madam President, 62 percent, for a total of \$47.1 million in their school districts immediately, not some

promissory note based on some kind of a cockamamie ballot question that has to be asked in November and that in fact may not pass. This is guaranteed and will take place now. In the 49th Senatorial District, 69 percent of the households; the 26th Senatorial District, 61 percent of the households, and they save \$41 million under our proposal. The 12th Senatorial District, 60 percent of the households; the 27th Senatorial District, 58 percent of the households; the 30th Senatorial District, 57 percent; the 20th Senatorial District, 71 percent of the households, to a tune of \$49.2 million; the 23rd Senatorial District, 62 percent; the 31st Senatorial District, 62 percent; the 40th Senatorial District, 71 percent; the 15th Senatorial District, 61 percent; the 9th Senatorial District, 65 percent, and they save \$39.5 million. I believe that is in Chester, Madam President.

Next, the 37th Senatorial District, 68.9 percent; the 33rd Senatorial District, 69.9 percent; the 44th Senatorial District, 69.5 percent, \$22 million; the 50th Senatorial District, on the far western part of Pennsylvania, 63 percent; the 25th Senatorial District, 64 percent; and, Madam President, the one that I really missed and I did not want to is the 29th Senatorial District, which saves \$50.5 million in this proposal. And it goes on: the 19th Senatorial District, 57 percent; the 6th Senatorial District, 64 percent; the 28th Senatorial District, 67 percent or \$23 million. These are all Republican districts, and they are the people who will have an immediate savings on our proposal. Again, not a promissory note. In the 36th Senatorial District, 66 percent; the 41st Senatorial District, 64 percent, \$14 million; the 21st Senatorial District, 64 percent, \$11 million; and finally, the 24th Senatorial District, and I gave them, in case you are interested, in alphabetical order, for those Members who are Republican, 68 percent or \$26.7 million, and that would take effect, Madam President, immediately upon passage of the amendment and this bill in the Senate, passage of the bill in the House, and Governor Rendell putting his signature on the proposal. Now, how can we turn our backs on the people of Pennsylvania and not consider these kinds of proposals, and how can we say to the people of Pennsylvania that if you vote for my amendment, you are adding massive new spending to the people of Pennsylvania?

Well, once again, Madam President, I am going to repeat to you, if you do not vote for my amendment, you are adding massive new spending at the local level by increasing the earned income tax, you are jeopardizing the individual who goes to work every day and gets paid on a W-2, because they have nowhere to hide, they cannot shelter any money, and you have given those individuals who have the opportunity to shelter money, to hide income, which is not illegal, by doing it through investments, through interest, and through investment income, you are giving them the opportunity to take all that money and set it aside.

Finally, Madam President, and I know people are going to be happy to hear that, there was some suggestion that Social Security might be under consideration in this proposal. I was here in 1989. Senator Jubelirer talked about how the question was defeated in 1989, 14 years ago, Madam President. The vast majority of the Members of this body were not here 14 years ago. I was here. Senator Jubelirer was here. I remember exactly how that legislation passed on that late evening in November when it was mandated by the Republican Party that the question had to go on the ballot in the primary election, knowing full well that

people do not come out to vote in the primary and that it would be easier to defeat the amendment. I remember full well how the Republican Party in the Senate took the lead against then-Governor Casey to defeat the amendment at the ballot box, and I am hearing the same things today I heard then, that if senior citizens vote for the homestead exemption, it was not the homestead exemption at the time, it was to amend the Constitution and the uniformity clause, but the scare tactics were then that Social Security was going to be taxed, pensions were going to be taxed, retirements were going to be taxed. Nothing was further from the truth then, and nothing is further from the truth now. So let us not be misled. The only thing in our amendment that will be increased will be whatever this General Assembly wants it to be.

This is an Education Code bill. There is no tax increase in this bill. There would be an understanding that once this bill was passed, we would have to provide some kind of revenue to pay for the bill. The difference between this amendment and Senator Jubelirer's bill is that Senator Jubelirer's bill shifts the tax burden once again to the local individual. So now they are going to have local property taxes to pay, and in addition to that, they are going to have significant earned income tax to pay, and in most cases that earned income tax is in excess of 2 percent, and in all cases it is double what they are paying right now.

Madam President, this is a no-brainer. If you want to reduce taxes, you can vote for our amendment. If you want to continue this dialogue, you can vote against the amendment and ultimately vote for Senator Jubelirer's bill, but I guarantee you this, when that happens and if that gets to the front office, as Governor Rendell said last night he will veto House Bill No. 113 in that particular form, Senate Bill No. 100 the way it is right now advanced by Senator Jubelirer will have the same fate, Madam President, and I do not think that is what any of us want to do.

Thank you very much.

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, I sat here and listened in amazement to my colleague, Senator Mellow, talk about the differences we have between these two philosophical approaches to local tax reform. I must correct the record, and I call to Senator Mellow's attention and the Members' attention on page 5 of the amendment, section (4), subsection (i), and I quote, "In fiscal year 2003-2004 by the revenue collected from levying the tax from 2.8% to 3.2%." That is a billion dollars, that is a tax bill, and that is what you are voting for if you vote for this. That is in the amendment, it is as specific as can be, and there is no question that we are voting for a massive tax increase levied by the General Assembly on every single taxpayer who is not exempted from paying personal income taxes, every single taxpayer will pay an increased income tax of .4 of 1 percent, if this amendment was to ever pass. And if it was to pass, there would be a huge hole in it, because the one source of revenue that they are counting on has not been passed in either body of the General Assembly, that is the gambling bill. Will it pass? I frankly do not know, but if it does not, it leaves a huge hole.

Madam President, I will trust the voter and the taxpayer every single time before I trust government to tell us what to do. In this instance, we are asking and we are saying that each and every

local district should have its say, and that is not unusual in any part of this country. What the Mellow amendment proposes is a massive tax increase, and there is no other way to say it. A billion dollars is a lot of money. That is a big tax increase. The Governor would have supported a larger tax increase, and that goes to every single taxpayer in the Commonwealth of Pennsylvania, even if you do not choose to have any kind of local tax reform if it does not work. To use the household barometer as they have used is an absolute sham. It has never been used before. It is a residential property tax, the word "household" meets their purposes by using it, and it is an absolute sham. There is nothing else to call it. If this is a cockamamie referendum, as Senator Mellow has characterized it, then the voters and the taxpayers, well, let them decide if it is so cockamamie. They are the ones who have to pay the bill. They are the ones who are being asked if they want to do this. I trust the taxpayer. I believe that the taxpayer and the voter ought to have an equal say and be partners with State government.

Madam President, the difference in the earned income tax, as Senator Mellow has indicated, and the personal income tax is very simple. If the voters of a particular school district do not want to impose an additional earned income tax on themselves, on themselves, if they do not want to do it, it will not happen. If we take the Mellow amendment, every single taxpayer, regardless of whether they want to or not, will pay an additional .4 of 1 percent on the personal income tax, and that is a billion dollars and it is coming out of their hard-earned paychecks, it is going to be withheld at the source, and they will pay it. They have no say of any kind whatsoever. All we are saying is that in this kind of an economy, in this type of a fiscal atmosphere, let us be very careful about how we raise taxes in what has been a recessionary period. Hopefully this economy will come back, and I believe it will. But at this point, we would be following a path of raising significant, call them significant taxes. If you do not think a billion dollar tax increase is a lot, well, as Everett Dirksen said, a billion dollars here, a billion dollars there, pretty soon you are talking about real money. And I think taxpayers, I know in my district, would think that was a pretty significant amount.

Madam President, I think the taxpayers were very wise in 1989 on a 3-to-1 basis to turn down a plan that guaranteed in a matter of years they would have new sales taxes, new income taxes, and they were going to have property taxes rise once again after 5 years. Madam President, I think that the people of Pennsylvania are more than prepared to have an opportunity to say, yes, I think this is a good thing. A lot of districts are not going to change from the property tax to the earned income tax because it really would not be to their benefit, but at least they have a sense of having a say in it, and very well. Even in my own senatorial district, two districts may go in completely different directions in one county. I have no doubt that there will be times when various school districts will either insist that they want to change or say that they want to keep those property taxes.

Madam President, this is a tax bill, it is in the amendment as presented to us, it is on page 5, it is in section (4), subsection (i). It is there for anyone to see. It is a significant tax increase in the personal income tax, and I really believe that with the hole it would provide if the gambling bill does not pass, there are so many uncertainties about this. Using the term "households" is not

the way that we calculate who the winners and losers are. Madam President, I strongly urge that everyone think about what we would be imposing on the taxpayers of Pennsylvania if this amendment were to pass. At least we give them a voice, at least we give them an opportunity to be heard, if we reject this amendment and pass Senate Bill No. 100.

Thank you.

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

Senator O'PAKE. Madam President, I rise to support the amendment. The reason, very basically, is that without this amendment, Senate Bill No. 100 does not guarantee \$1 in property tax reductions anywhere in Pennsylvania. My distinguished colleague, the President pro tempore, talked about giving local choice. The voters have had the opportunity to exercise a local choice ever since Act 50, the so-called historic act, historic for its failure, was enacted, and only four school district property taxpayers in the entire Commonwealth have opted to switch from a property tax to an earned income tax at the local level. They have that choice. Unfortunately, since the defeat in 1989, the voters of Pennsylvania have been paying over \$2 billion more in property taxes since that choice was exercised in 1989. What the Mellow amendment is all about is to guarantee property tax reductions, not hold out the false hope, the mirage, if you will, under the misnomer of a taxpayer choice act. Again, this bill does not levy any additional taxes. This is an amendment to the School Code, not to any Tax Code.

What this amendment does, however, is lay out a blueprint for an immediate reduction in property taxes throughout Pennsylvania. And if you want to analyze the impact, and I know when the figures do not jibe with your argument, you want to downplay the figures, but every Senator's school district in this Senate benefits from a reduced property tax, and it varies percentage-wise. I am looking at my district, Berks County, 68 percent of the households in Berks County will see a net reduction in the amount that they pay because the reduction in their school tax will far outweigh the additional .4 of 1 percent that some wage earners will pay on their Pennsylvania income tax. The net impact, the net gain to the taxpayers of the 11th Senatorial District is \$27.5 million. That is a huge tax cut, a property tax reduction. Election after election, all of us go out and say to the voters, we want to reduce your school property taxes.

This is the opportunity to put your vote where your mouth was the last time you ran and give the people of Pennsylvania what overwhelmingly they are demanding, and that is a reduction in the school property tax. No one is so naive as to expect that this money is going to drop from heaven. If you are going to reduce property taxes, you are going to have to get it somewhere else, obviously. But the problem becomes in the Readings of Pennsylvania, and there are many other communities like Reading, Reading is property tax poor, and it is wage income poor. The population, the wage earning population is leaving the city of Reading. We have one of the highest unemployment rates in the Commonwealth. I think in March it was something like 11 percent. People, the ones who keep jobs, are getting lower-paying service jobs instead of the high-quality jobs that they had before. There is massive unemployment. Property tax

values are down, and what good does shifting from a property tax poor area to a wage tax poor area do for the people of the city of Reading? There is very little hope under Senate Bill No. 100 without the Mellow amendment for the Readings and the other communities that are in that situation.

I also want to point to something that was pointed out by Moody's Investor Service, not a partisan, certainly not a political agency. They warned 3 years ago in July 2000, they issued a special comment on the impact of Act 50 on the credit quality of school districts that might choose to adopt this plan. That special comment was very clear, it concluded that implementation of Act 50 could have a significant adverse effect on the credit ratings of those school districts. In particular, Moody's stated, and I quote, "The risk of diminished credit quality...is particularly great in school districts facing negative job growth or where higher paying manufacturing jobs are being replaced by lower paying service-sector employment," end of quote. The Moody report continued, and I quote again, "Moody's believes that school district debt issued subsequent to adopting the Act 50 tax structure will be less secure... Therefore, rating assignments on general obligation debt issued subsequent to voters' approval of the Act 50 tax structure could carry a lower rating than debt issued prior to the new tax structure," end quote.

As I pointed out, Reading falls exactly into that situation. We are property tax poor, property taxes are going through the ceiling, but the wage earning base is also eroding because people are leaving the city, and the once good, high-paying jobs that we once had are now being replaced by lower-paying service sector jobs. To increase the earned income tax on those who live in Reading and are still fortunate enough to have a job as the only hope for funding homeowner property tax reductions would have an extremely counterproductive, adverse effect on the Readings of the Commonwealth of Pennsylvania. Without this amendment, Senate Bill No. 100 is no answer to the serious financial woes that Reading School District faces, and many others. It is no real choice. If you shift from a poor property tax area to a very poor income-producing area, you really have no choice. What is needed is a statewide fairer tax which then can be used to increase the amount of State subsidy to help these school districts to lower their property taxes without having to pay a higher increase, as the Jubelirer bill proposes.

Senate Bill No. 100, without this Mellow amendment, is an abdication of our responsibility. It could be a cruel hoax, and just like Act 50, which was only adopted in four school districts in Pennsylvania, this will not provide any meaningful relief to the people who need it, that is unless we adopt the Mellow amendment. So without the Mellow amendment, this will not cut anybody's property taxes, and I urge a positive vote on the amendment so that we can guarantee property tax reductions throughout Pennsylvania in the areas where they desperately need that relief.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, I am going to be brief. I was not going to say anything, but I could not let this go without a response. My good friends on the other side of the aisle seem to think we are taxing two different universes of people

under these two different proposals, that we are going to levy a much higher PIT, personal income tax, on one group of people, which happens to be a statewide group, but under the original bill, we are only going to levy it on local people. Madam President, we are talking about the same people. These are the taxpayers of Pennsylvania. They are all going to pay if they shift taxes. They are all going to pay higher taxes on their incomes.

Now, the question is not who is going to pay a higher tax, because tax reform is tax shifting. The question is not whether we are going to shift, because that is what tax reform is all about. The issue is, number one, where are we shifting the money to, and, number two, who is going to decide who is going to do the shifting, and in what amounts? I strenuously oppose the amendment offered by the gentleman from Lackawanna because, contrary to what my friends on the other side of the aisle are saying, it does not guarantee any tax relief at all except in the first year, because it raises statewide taxes. And then the taxpayers who paid that tax back in their local district on their State income tax forms are going to have to hope and pray every year that the General Assembly, in its wisdom, and the Governor, in his or her wisdom, is going to appropriate that money back to them.

Now in the first year, according to the bill, we know what the printouts say, but that is only one year. That could be changed with the enactment of an amendment to this statute at any given time, at any given time. So the idea that this is guaranteed tax relief is a ruse. It has not guaranteed anything except higher taxes. That is what you are going to get for sure. That is what you are going to get for sure.

Number two, where is the money shifted to? Well, as I said, under the Mellow amendment, it may be shifted to your district, and then again it may not. In all likelihood, it is not going to be shifted to your district. Under Senator Jubelirer's bill, however, the shifting takes place within the school district. So if you do happen to pay higher taxes because your EIT, earned income tax, goes up, it is going to stay in that school district where you live, where you and your family and your friends and your kids go to school. You do not have to worry that it is going to go off into some other school district, deserving or undeserving. And in addition, it is guaranteed, because if it is enacted by the voters in that district, the school board cannot come in and take it away from you without going back to you for a referendum. So there is a guarantee in the underlying bill, and there is no such guarantee in the amendment.

The other question is, who does the shifting? Under the Mellow proposal, the legislature does the shifting. We shove it down their throats, Madam President, and we tell them this is how much we are going to take away from you and this is how much we are going to give back to you, maybe, certainly this year, maybe something different next year. Under the Jubelirer bill, the people decide, the people in each school district decide whether or not their earned taxes will go up and whether or not their property taxes will go down and by how much and for how long, because they will get to decide whether they go up again in a back-end referendum. This amendment, this whole concept is a ruse for higher State taxes to spend more and more money on public education, money that is not needed to be spent. Madam President, this amendment needs to be defeated.

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

Senator WOZNIAK. Madam President, I have been listening to my fine colleague from Altoona, certainly much more experienced than myself, and the good Senator from Peckville, a CPA, and the fine gentleman from Dauphin County, going round and around, and I am not directing this at anybody, but when do you know when a politician is not telling the truth? When his mouth is moving. I think in a lot of stuff said here, there are merits in Senate Bill No. 100, but there are also merits in the Mellow amendment. We are separating ourselves simply because the Rs are over on that side, the Ds are over on this side, and simply because we vote against each other. That is asinine and that is not what the people, if they are listening on PCN right now, want us to do. There is a legitimate philosophical difference here, but let me explain it so I think that the general public will understand it, because mostly what they are hearing right now is just blah, blah, blah, blah, taxes. That is the only word they are hearing. All the other explanations disappear in the jetsam and flotsam.

What the Mellow amendment is doing is raising taxes. Yes, it is. But what it is doing is driving money to State government to be driven out throughout Pennsylvania to the poor school districts, to the rich school districts in a fairer way. You are going to get a property tax reduction. It is inherently unfair for the people of Turkeyfoot or rural Pennsylvania to have the choice mandated, which Act 50 said you have the choice to put it on the ballot or not, and now Senate Bill No. 100 is shoving it down their throats by forcing a mandate. The other thing, nothing from nothing is nothing. The first thing we have to do in this State is try to equalize the subsidies that the school districts get. There are 501 school districts in Pennsylvania. I do not think there is another State in the Union that has that many school districts. We have not altered our school districts since the 1960s. The world has changed a hell of a lot since 1968. Populations have shifted, people have moved, cities have lost populations, suburbs have grown, economics have shifted from manufacturing to technology, all kinds of things have happened in this world, yet we still argue trying to stay the course of local control. The children of Pennsylvania are not the children of the Greater Johnstown School District. The children of Pennsylvania are not the children of Penn Hills or somewhere in the Main Line outside of Philadelphia, they are Pennsylvania children who have the constitutional right of a fair and equitable education.

Somewhere along the line, we are losing the forest for the trees, 501 trees. Some very strong, powerful, old, and wide, others weak little saplings because they have less fertile ground. What the Mellow amendment is doing is trying to say nothing from nothing is nothing. You are raising taxes, Pennsylvania-wise, by a personal income tax and maybe some other derivatives, it goes to the State capital and it is driven out to try to reduce property taxes fairly across the State. I have no problem with putting the Mellow amendment in, and once we start adjusting some of those inequities in 501 completely different school districts, then we can move forward to let the school districts make the determination, after the dust settles down and things are equalized a little bit, to make the determina-

tion as to whether or not they want to go by an income tax, earned income tax, or a property tax.

Let me make one last point, maybe a couple more points. If we are successful in getting the slots, as the revenues from slots increase, that personal income tax very well may decrease. We will use those revenues to continue the process. We have balkanized Pennsylvania with 501 school districts. Maybe the challenge should be to start to reduce those in numbers, try to get some efficiencies in scale and be more productive with the tools we have, but that is for another day. Tax restructuring, I think, is a better term than tax shifting. The people out there are not dumb. They know there is no free lunch. The money to operate school districts has to come from somewhere. I think the Mellow plan or the Mellow amendment has merit. I think it should be included in Senate Bill No. 100. We have come a long way in trying to bring awareness to the general population about the issue of education. We have done an extremely poor job in trying to equalize the subsidies to the children out there. Let us begin that step and let us try to do it without being partisan, without pointing fingers, because I was always taught when you point a finger, three point back at you.

So, we are all adults here, why do we not bend a little bit and say, you know what, let us give that a chance over here. Let us incorporate that into Senate Bill No. 100 and move the situation forward. I know we have the House to deal with, a Governor to deal with, and we have a budget to deal with, and we have slots to deal with, and we have economic development to deal with, but right now we are trying to deal with the issue of education, we are trying to deal with the issue of what is the fairest way to levy taxes and distribute them. We have balkanized Pennsylvania with our 501 school districts. We are all one, every one of us here, even though we represent individual districts, represents Pennsylvania, Pennsylvania first, not artificial political boundaries drawn over 40 years ago.

Madam President, let us support this bill and let us support this amendment and then move forward to support Senate Bill No. 100 and make it a hybrid and something we can be proud of.

Thank you very much, Madam President.

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

Senator WAGNER. Madam President, I also did not intend to speak, but I rise to make some brief comments in regard to the amendment and how it impacts the bill.

First of all, it is important to mention, Madam President, that without the amendment, at least 50 percent of my senatorial district will not benefit from property tax reform, and that 50 percent of my senatorial district is the city of Pittsburgh. That is excluded in Senate Bill No. 100. There are other very important communities across the Commonwealth of Pennsylvania that are also excluded, our largest city, Philadelphia, the 12 school districts that have been mentioned earlier, Harrisburg, Chester-Upland, and a number of others. So it is very important to let the supporters of Senate Bill No. 100 know that property tax reform in my area is as important as it is in other areas. As a matter of fact, Allegheny County is probably the county that has spoken out the most within the last several years and has asked for property tax reforms, and there have been rallies and literally

hundreds of people and 80,000 signatures on a petition delivered by Senator Logan to the Governor's Office for property tax reform. So what happens, we have a bill, Senate Bill No. 100, that excludes the largest municipality in Allegheny County, and some other municipalities that have school districts that have financial problems today.

So, how can I vote for Senate Bill No. 100, or how can anyone who represents those communities that are excluded, when our people are being treated as if they do not live in the Commonwealth of Pennsylvania? Now, Senator Mellow puts forth an amendment that is a good amendment, that is somewhat a hybrid of what Governor Rendell has suggested as part of property tax reform. And ideally, I would like to see the Governor's package of bills be put forth for debate and discussion and a vote in this Chamber, and I personally think they should be because he is the executive within the Commonwealth of Pennsylvania, and he has asked for significant property tax reform. What Senator Mellow's amendment does is take that proposal, again in a hybrid type of way, and shift it into Senate Bill No. 100, a justifiable attempt to have property tax reform for all the communities in Pennsylvania, not just some. So I think the amendment, simply on that one simple fact, that it does not exclude any communities, is worthy of consideration. And I would like the discussion to be more inclusive than that, but it is not. Part of this discussion, even though this is an education bill, part of the educational discussion was yesterday in House Bill No. 113, but really what the Governor wants is property tax reform tied into school property taxes, he wants educational reform, early childhood education, he wants full-day kindergarten, he wants smaller class size, he wants it to be a whole package, and unfortunately, we are dealing with this in a piecemeal fashion with Senate Bill No. 100 and also with the amendment.

But, Madam President, what concerns me most between the amendment and the bill is that the amendment really takes the bull by the horns and puts the responsibility for property tax reform in this building, and that is the reason why the people elected us. That has been polled as one of the top issues in Pennsylvania, as it comes to taxes and tax reform. And the public is tired of us, saying all of you were elected to make decisions and to create change and leadership responsibility, and now you want to give it back to the local entity with local referendum. I think the referendum, Madam President, should be right in this Chamber. I think that is where the vote should occur for property tax reform, not out in 501 school districts or 501 less 25. I think the referendum should be right here. And that is what Governor Rendell has said, the referendum should be in Harrisburg, not in the school districts, because it will be done in a piecemeal fashion, and you will have people in each and every school district, senior citizens fighting people on the earned income, senior citizens wanting property tax reform, people with the earned income not wanting the change to occur. So throughout Pennsylvania, there will be battles in each and every community based on whether or not a certain group is more influential at the ballot box, and we know how that works. And in the end, I would bet, Madam President, that the majority of school districts, if not the overwhelming majority, will not have property tax reform,

because it is determined by who has more influence on election day. That is really what it is all about, and the world knows that.

So again, I think this amendment is good because the referendum occurs right here, and we have to put our vote up. We are not saying we are giving the vote to someone else, we are saying we were elected to make the vote on the tough issue. And you know what, Madam President? This is a tough issue. The Governor knows it is a tough issue and that is the reason why he has proposed a more drastic proposal for property tax reform that I believe should be under consideration also, but we can only deal with what is in front of us. And for all those reasons, I support the Mellow amendment.

Thank you, Madam President.

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

Senator FERLO. Madam President, being the new kid on the block, having just arrived here at the State Senate following on the heels of a very recent election, a spirited grassroots effort to win this seat in the State Senate, an election that also was graced with the presence of a very aggressive gubernatorial candidate who now is the Governor, and that is Governor Rendell, I feel some obligation to speak, and I will try to be brief. I have grown quite frustrated, and maybe that is part of my newness, but I would say I am very upset and have grown somewhat disheartened by what I think is a very mean-spirited act, not only by the Majority in the Senate, but in the House as well, since January, and that is the mean-spiritedness about not recognizing what the real needs are of the residents and the constituents whom we were elected to represent. I have seen a mean-spiritedness in terms of the budget realities and the inactivity of this Senate to be able to move forward in the remaining 8 days or 10 days or 12 days, or whatever we have left, to really address significant budget cuts that have hurt people, hurt families, and hurt communities that we represent. I have spoken about it before at this podium about the budget transfer amounts and cutbacks in Port Authority funding, the human service development funds, and 40 other programs that time today does not permit me to speak about. But first and foremost, there has to be activity and action for us to address, in a very serious way, meaningful property tax relief. My colleague from Allegheny County is certainly correct that there was an unbelievable revolt within Allegheny County this past year and a half at an outrageous reassessment system that has created even further inequities, and yet none of this is addressed in Senate Bill No. 100 that is now before us.

We must come together and support the Mellow amendment in order to make Senate Bill No. 100 even meaningful or worth talking about. As far as I am concerned, Senate Bill No. 100 in its present form is a continuation of the sham of Act 50. It is a pandering political placebo that we can put back out to the voters, we can go back out to our districts, the Majority colleagues on the opposite aisle can go back to the AARP meetings and senior centers and say, oh yeah, we worked and we fought and we want to get meaningful property tax relief. We know it is a bunch of malarkey and a bunch of baloney, and people are sick and tired of hearing that. They want leadership from the Senate and from the House and from Governor Rendell,

and this Governor has provided leadership. He has given us a blueprint to raise revenues. Our constituents are not stupid. They know if we are going to raise revenues for education funding and the various programs, they know if we want to shift programs and property tax to wages, or vice versa, that somebody is going to pay and somebody is going to have to change the way they write their checks. People know that. They want an opportunity, though, in a meaningful way, to see property tax relief. And the bill, in its present form, does not do that at all. In the Mellow amendment, significantly in my Senate district alone, I have 11 school districts, and on average my school districts would see a 30-percent reduction in a meaningful way on school property tax.

So I ask please for consideration of the Mellow amendment and, you know, I was also almost starting to be won over by the eloquence of the President pro tempore in his argument in favor of Senate Bill No. 100, and I was impressed by the fact that he was so democratic that he wants the people to decide. Well, let us put a referendum on the ballot across the State to actually abolish property taxes, like the Logan-S.T.O.P. proposal, and let us let the voters decide if they want to completely abolish property taxes or go to a mixture of personal income tax or the earned income tax or some other mix of taxes. We want to be democratic? Great, let the Pennsylvania voters decide the Logan-S.T.O.P. proposal.

Thank you, Madam President.

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

Senator BOSCOLA. Madam President, by the way, I am all in favor of my colleague who said, let the voters decide on elimination of property taxes totally. I absolutely agree with him. But I rise in support of this amendment for one reason and one reason only. This amendment does guarantee that local school property taxes will be reduced significantly for everyone I represent who pays school property taxes, every Pennsylvanian. If this bill, Senate Bill No. 100, goes in without the Mellow amendment, that means that if you live in Lehigh County or Northampton County or Monroe County, in one school district you might get a property tax reduction, in another district you might not. How can we live with that? Every single senior citizen deserves to have some type of property tax reduction, and Senate Bill No. 100 does not do that. Now, it is kind of disingenuous when the other side of the aisle says, oh my gosh, if you vote for the Mellow amendment, all of a sudden it is \$1 billion in State taxes. Okay. But it is a \$1.5 billion reduction in property taxes. The reduction in the property taxes seems to be missed by the other side of the aisle.

So, yes, let us look at this. Maybe we need some State revenues to offset this property tax reduction. I have always said we need a menu of revenue sources so we do not hit people hard who are working class, people earning a paycheck. This leads us there. There is a menu of options available. The local school property tax is the most hated tax there is, and the reason for that is very simple. Local school property taxes are based on where you live and what you own, not based on your ability to pay. That is the fundamental reason why property taxes are driving senior citizens from their homes and why young, working families cannot afford to buy a home. This amendment cuts property taxes for homeowners from the Lehigh Valley through

the Pocono area. It offers hope, it offers hope to senior citizens in Lehigh County and Monroe County and Northampton County and every county across this Commonwealth. This is the main concern for the people whom I represent, and I cannot, in good conscience, pass up the opportunity to vote for real property tax relief. And the editorials across this Commonwealth, newspapers say, when is it time, when is it time for the lawmakers to take some bold steps and not cower behind well, if we raise taxes at the State level, that is too much, and let us forget about the property tax reduction, that is the most important thing. Okay, so we raise State taxes a little bit, but the property tax reduction will be significant, real tax relief that puts money back into the people's pockets. That is what this is about.

Madam President, last year I was proud, very proud to be the first lawmaker in the history of this Commonwealth to have a sitting Governor convene a Special Session, and that Special Session dealt with property taxes. I regret that we did not act on any plan during that Special Session, but what I will acknowledge, even from the other side of the aisle in the meetings of the Committee on Appropriations, they have said during that Special Session, the Republicans worked on some bills that dealt with property tax reduction in that Special Session, Senate Bill No. 100 is a component of that, and the Democrats have had numerous proposals for years and years now to reduce property taxes. But today we have that chance, we have that chance. We can finally, after 30 years, vote to significantly reduce local school property taxes.

You know, I recently read a published poll that showed that more than two-thirds of Pennsylvanians support replacing local school property taxes with other State taxes. And for the record, the poll was conducted by Madonna Young Opinion Research on behalf of Good Schools Pennsylvania. Now, I do not know Dr. Madonna personally, and when I first read this, I was a little skeptical. I was so skeptical that I decided to conduct my own poll. And I was assured that it is an accurate scientific random sampling of the voters in the 18th Senatorial District that I represent. Well, I am here to report to you today that the results are in, and according to the Boscola poll, the actual number of people who support paying higher State taxes in order to reduce local school property taxes is higher than two-thirds of the people. In fact, the data shows that 71.2 percent of the people I surveyed favor increasing State taxes in order to reduce local school property taxes. And in case anyone at home thinks, well, was that a loaded question, I asked the question again at the very end of the survey because my staff tells me that this is called a retest question. Well, once I saw the results of that question, I was not skeptical anymore. On the retest question, 70.9 percent of the people surveyed favored an increase in State taxes for the sole purpose of reducing local school property taxes. This amendment puts every single dollar raised at the State level, any revenue, directly into property tax relief.

Madam President, I am confident that this proposal has the overwhelming support of the people whom I represent, and for that reason I am voting in favor, and I ask for everyone to make an affirmative vote on a bold move.

Thank you, Madam President.

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

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

YEA-21

Boscola	Kitchen	O'Pake	Williams, Anthony H.
Costa	Kukovich	Schwartz	Williams, Constance
Ferlo	LaValle	Stack	Wozniak
Fumo	Logan	Stout	
Hughes	Mellow	Tartaglione	
Kasunic	Musto	Wagner	

NAY-28

Armstrong	Greenleaf	Piccola	Thompson
Brightbill	Helfrick	Pileggi	Tomlinson
Conti	Jubelirer	Punt	Waugh
Corman	Lemmond	Rafferty	Wenger
Dent	Madigan	Rhoades	White, Donald
Earl	Mowery	Robbins	White, Mary Jo
Erickson	Orie	Scarnati	Wonderling

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 third consideration?

A. H. WILLIAMS AMENDMENT A2201

Senator A. H. WILLIAMS offered the following amendment No. A2201:

Amend Sec. 1 (Sec. 623-A), page 19, line 9, by inserting after "from": the liability of the taxpayer for personal income tax due to the Commonwealth under section 302 of the Tax Reform Code. The deduction shall not exceed

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

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Anthony Williams.

Senator A. H. WILLIAMS. Madam President, the amendment is fairly simple. While there are those who want to advance Senate Bill No. 100 for whatever merits it may represent, there are those who will pay a real financial consequence if the bill is enacted. I happen to be one of the few legislators in the southeastern region who represents Philadelphia proper as well as part of its surrounding suburbs, and constantly we are pitted against one another. Frankly, I remain frustrated as a result of that because I think one of the great economic engines of Pennsylvania is southeastern Pennsylvania. And if we could ever learn to live together and cooperate and unify our efforts towards one common goal, then we would be a tremendous success nationally. This, to me, represents that moment.

While there are many in Delaware County who apparently want to have the opportunity to express themselves at the ballot box because they have elected school boards, Philadelphia County would lose approximately \$83 million in that process. The amendment provides for a provision where Philadelphia

County is protected. It would allow that Senate Bill No. 100 go forward for constituents to express themselves and Philadelphia not to be financially penalized in the form of a credit. The amendment is very basic, it is one that people expect us to work on together toward a common end we all would support.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, we would accept the amendment.

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

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

WENGER AMENDMENT A2076

Senator WENGER offered the following amendment No. A2076:

Amend Title, page 1, line 5, by inserting after "thereto,"": further providing for per capita taxes; and

Amend Bill, page 1, lines 10 through 12, by striking out all of said lines and inserting:

Section 1. Section 679 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended November 26, 1982 (P.L.760, No.215), is amended to read:

Section 679. Per Capita Taxes.—Each resident or inhabitant, over eighteen years of age, in every school district of the second, third, and fourth class, which shall levy such tax, shall annually pay, for the use of the school district in which he or she is a resident or inhabitant, a per capita tax of not less than one dollar nor more than five dollars, as may be assessed by the local school district. The tax collector shall not proceed against a spouse or his employer until he has pursued remedies against the delinquent taxpayer and the taxpayer's employer under this section.

Each school district may exempt any person whose total income from all sources is less than [five thousand dollars] ten thousand dollars per annum from its per capita tax or any portion thereof. The school district may adopt and employ regulations for the processing of claims for the exemption.

Section 2. The act is amended by adding an article to read:

Amend Sec. 2, page 25, line 27, by striking out "2" and inserting:

3

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

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

CORMAN AMENDMENT A2325

Senator CORMAN offered the following amendment No. A2325:

Amend Title, page 1, line 7, by removing the period after "electors" and inserting: and for applicability of referendum exceptions.

Amend Sec. 1 (Sec. 614-A), page 15, by inserting between lines 15 and 16:

(7) To make payments on behalf of active members of the Public School Employees' Retirement System as required pursuant to 24 Pa.C.S. § 8327 (relating to payments by employers), where the increase in the employer contribution rate on behalf of active members as calculated under 24 Pa.C.S. § 8328 (relating to actuarial cost method) for the school year for which payments are required is equal to or greater than 200% of the employer contribution rate on behalf of active members in effect for the school year prior to the school year for which an exception under this paragraph is sought.

(8) To pay extraordinary expenses incurred in providing special education programs and services to students with disabilities where the anticipated increase in expenditures on special education programs and services is greater than 10% of the school district's total expenditures on special education programs and services for the school year prior to the school year for which an exception under this paragraph is sought.

(9) To compensate for a one-year decrease of 10% or more in the school district's real property tax base. For the purposes of this paragraph, the decrease shall be measured by the percent change in the assessed value of all taxable property within the school district between the fiscal year in which an exception under this paragraph is sought and the fiscal year immediately preceding the fiscal year in which an exception under this paragraph is sought.

Amend Sec. 1 (Sec. 614-A), page 15, line 23, by striking out "OR (6)" and inserting: (6), (7), (8) or (9)

Amend Sec. 1 (Sec. 614-A), page 15, line 27, by striking out "or (6)" and inserting: (6), (7), (8) or (9)

Amend Sec. 2, page 25, line 27, by striking out all of said line and inserting:

Section 2. The addition of section 614-A(f)(7), (8) and (9) of the act shall apply to school districts in which a referendum question under 53 Pa.C.S. § 8703 has been approved and implemented.

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 Centre, Senator Corman.

Senator CORMAN. Madam President, I will be brief. This amendment deals with the back-end referendum in Senate Bill No. 100, and I should point out that it is applicable not only to all the school districts affected by Senate Bill No. 100, but all the school districts affected by Act 50 passed earlier. There are just three exceptions, and if school districts met these criteria, for whatever reasons, they would not have to apply the back-end referendum. First would be for increased costs related to PSERS, where the increase of employer contribution rate for the school year is greater than 200 percent. Second are increased costs related to special education programs where the cost to provide the program services is greater than 10 percent of the school district's total expenditures, and third, to compensate for a 1-year decrease of 10 percent or more in the school district's real property tax base. So this is just a way to deal with--obviously, the back-end referendum is about trying to rein in costs. These are costs that school districts do not really have any control over, and so these would be exceptions to the back-end referendum in this case.

Thank you, Madam President.

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

Senator KUKOVICH. Madam President, I rise to support Senator Corman's amendment. I believe what he is attempting to do is take those kinds of costs that, to a great extent, are outside the control of the school districts and create an element of fairness for them. I think this is a reasonable amendment, and I ask for your support.

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

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

YEA-49

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Kukovich	Rafferty	White, Donald
Costa	LaValle	Rhoades	White, Mary Jo
Dent	Lemmond	Robbins	Williams, Anthony H.
Earll	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Schwartz	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fumo	Mowery	Stout	
Greenleaf	Musto	Tartaglione	
Helfrick	O'Pake	Thompson	

NAY-0

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 third consideration, as amended?

C. WILLIAMS AMENDMENT A2128

Senator C. WILLIAMS offered the following amendment No. A2128:

Amend Sec. 1 (Sec. 611-A), page 8, line 3, by striking out "sections 613-A and 614-A" and inserting: section 613-A

Amend Sec. 1 (Sec. 613-A), page 10, lines 12 through 21, by striking out "A board of school directors of a school district" in line 12 and all of lines 13 through 21

Amend Sec. 1 (Sec. 614-A), pages 12 through 16, lines 1 through 30; page 17, line 1, by striking out all of said lines on said pages

Amend Sec. 1 (Sec. 615-A), page 17, line 2, by striking out "615-A" and inserting: 614-A

Amend Sec. 1 (Sec. 615-A), page 17, lines 22 through 24, by striking out "The" in line 22 and all of lines 23 and 24

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

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, many of us here have a problem with the back-end referendum, as do our school districts and our elected school officials. I believe that the election every 2 years of the board of school directors is a direct referendum on what the school district is doing. I understand

there is sentiment in this house for a referendum. I can also understand that there is concern that if school districts know that we are going to fund more of their budgets, they will continue to increase their budgets. However, because of that, I do not think we really need a back-end referendum, as I said, because we have a referendum every 2 years when the board of school directors stands for election.

So I would like to offer amendment A2128, which removes the back-end referendum altogether. This is an amendment that Senator Corman did offer and vote for in the Committee on Finance last week, and so I offer it and ask for your support.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, I respectfully oppose Senator Connie Williams' amendment. To remove the back-end referendum is frankly a formula for higher property taxes after the voters decide that they want to exchange property taxes for an earned income tax using the homestead exemption. It was probably the biggest thing that sunk the Casey tax plan in 1989. Without a back-end referendum, there is no guarantee of any kind that local real estate taxes cannot be raised after the taxpayers have agreed to pay higher earned income taxes. To do this, in effect, destroys the bill. Taxpayers certainly should be partners in this process. The previous amendment, which was agreed to, provided three more liberal ways to have an exemption. There are several exemptions in there when there can be an increase in property taxes without voter approval, but overall, Madam President, this is an extremely important facet of Senate Bill No. 100, and to remove it, in effect, would gut the bill.

Madam President, I respectfully urge a negative vote on this amendment.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. I think one of the reasons that Act 50 was not successful in many communities is because of the back-end referendum. I urge a "yes" vote on this amendment.

Thank you, Madam President.

And the question recurring,

Will the Senate agree to the amendment?

The yeas and nays were required by Senator C. WILLIAMS and were as follows, viz:

YEA-22

Corman	Kasunic	O'Pake	Wagner
Costa	Kitchen	Punt	Williams, Anthony H.
Ferlo	Kukovich	Schwartz	Williams, Constance
Fumo	LaValle	Stack	Wozniak
Greenleaf	Mellow	Stout	
Hughes	Musto	Tartaglione	

NAY-27

Armstrong	Helfrick	Piccola	Tomlinson
Boscola	Jubelirer	Pileggi	Waugh
Brightbill	Lemmond	Rafferty	Wenger
Conti	Logan	Rhoades	White, Donald

Dent	Madigan	Robbins	White, Mary Jo
Earll	Mowery	Scarnati	Wonderling
Erickson	Orie	Thompson	

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 third consideration, as amended?

C. WILLIAMS AMENDMENT A2065 OFFERED

Senator C. WILLIAMS offered the following amendment No. A2065:

Amend Sec. 1 (Sec. 614-A), page 15, by inserting between lines 15 and 16:

(7) To pay costs associated with mandatory increased contributions to the Public School Employees' Retirement System.

(8) To pay costs associated with implementing new unfunded federally and State-mandated educational programs.

Amend Sec. 1 (Sec. 614-A), page 15, line 23, by striking out "OR (6)" and inserting: (6), (7) or (8)

Amend Sec. 1 (Sec. 614-A), page 15, line 27, by striking out "or (6)" and inserting: (6), (7) or (8)

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, well, I guess the previous amendment was not a successful presentation. I do agree with Senator Corman that if we are going to have a back-end referendum, there needs to be a few more exceptions that will go on this, and so I would like to propose exceptions to the back-end referendum, including the ones that we voted and agreed on with Senator Corman, and these exceptions would be increased contributions to PSERS and the unfunded mandates as well. We do not think that districts should be held responsible for their budgets without that.

I offer this amendment so that we do not burden school districts with the problem of following unfunded mandates such as the new Federal No Child Left Behind Act, without the funds to adequately address the issues that the unfunded mandates raise, and I also think we need to include the costs associated with implementing the Public School Employees' Retirement System contributions that our votes last year had an effect on.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, the amendment would exempt costs associated with mandatory increased contributions to the Public School Employees' Retirement System. That exception was actually accepted by the Senate as part of an amendment by Senator Corman about 10 or 15 minutes ago. Therefore, enacting or accepting this amendment would create conflicting language, which would cause ambiguity and create an engrossing problem in redrafting the bill, and therefore, I ask for a negative vote.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. May we be at ease, Madam President?

The PRESIDENT. The Senate will be at ease.
(The Senate was at ease.)

QUESTION DIVIDED

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, I rise to ask for a division of the question and withdraw lines 3, 4, and 5 of amendment A2065.

The PRESIDENT. The Chair rules that the amendment is divisible. Lines 3, 4, and 5 of amendment A2065 are withdrawn.

The record will reflect the portion of amendment No. A2065 now under consideration:

Amend Sec. 1 (Sec. 614-A), page 15, by inserting between lines 15 and 16:

(8) To pay costs associated with implementing new unfunded federally and State-mandated educational programs.

Amend Sec. 1 (Sec. 614-A), page 15, line 23, by striking out "OR (6)" and inserting: (6), (7) or (8)

Amend Sec. 1 (Sec. 614-A), page 15, line 27, by striking out "or (6)" and inserting: (6), (7) or (8)

On the question,

Will the Senate agree to the remainder of amendment A2065?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. I offer A2065, as divided, which would waive the requirement to have a back-end referendum if the cost associated with implementing new unfunded Federal or State mandated educational programs increases the budget of a local school district. I ask for an affirmative vote on this amendment.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, I rise to support the amendment. My reason for doing that is we are dealing with No Child Left Behind. We have testing now with the State for 3rd, 5th, 8th, and 11th grades. We will have 4th, 6th, and 7th definitely from the Federal requirement, and that is not to say we will not have 9th, 10th, and 12th. Parental involvement, and I have had part of that and done that, so I am making a State mandate out of it, but it is going to be a Federal mandate. We have to define "highly qualified," which is going to mean we have to do new certifications in our middle schools. We have the issue of "persistently dangerous," which results in choice action within our schools. We have improvement planning, limited English proficiency, but I will tell you what, probably one of the biggest is, floating somewhere around here is a prekindergarten plan, a full-time kindergarten plan, and reduced class sizes in K to 3 to 17. But that is only going to be funded at 45 percent, so we would be putting a 55-percent unfunded mandate on the districts, so that is why I support this amendment.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, I respectfully ask for a negative vote on the amendment. The amendment is extremely broad, it is very difficult, I think, to interpret. I think it would permit interpretations of varying degrees that would not be in the best interest of what we are trying to accomplish. I recognize that this was done just recently and that there is an interest in doing this, but I do not think this amendment is what makes this bill any better. I think that, frankly, it is so broad that it could be interpreted in a way that would be contrary to what we are trying to accomplish, and I respectfully request a negative vote.

Thank you, Madam President.

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

Senator KUKOVICH. Madam President, I think this amendment has to be drafted this way, and be broad. I do not believe it is overly broad, the language is quite clear, but it has to be drafted this way if we are going to protect the school districts the way Senator Rhoades just related to us. It would be highly hypocritical for us to allow, with one hand, all kinds of mandates, whether it is the new Federal mandates or potential State mandates, as Senator Rhoades said, to be inflicted on schools, while, with the other hand, we are setting up a mechanism which would disallow them the opportunity to respond to that, especially if the State does not fund its fair share. We cannot strangle the schools that way. If you are going to have the back-end referendum, you cannot put a noose around the school district's neck. I think this is a reasonable amendment. I do not think it is overly broad, and I think it is a logical continuation of the amendment that we adopted by Senator Corman, and I ask for a positive vote.

Thank you, Madam President.

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

Senator SCHWARTZ. Madam President, I, too, rise to support this amendment. I think it speaks to, in some ways, some of the flaws in the legislation that I will speak to later that need to be corrected, and that is that there are tremendous expectations placed on our school districts today, both by the State and certainly by the Federal government. And so while I know there are some on the other side of the aisle who feel there are sometimes increases in funding at the local level for our schools, done without particularly good reason, the fact is that there are many very good reasons why our school districts have had to step up to the plate to make sure that there are adequate dollars to meet the expectations that we have been placing on our school districts.

Again, we have this very major Federal legislation focused on increasing school performance. In fact, we have a requirement, as most of us know, to make sure that every one of our children in Pennsylvania, 100 percent of the children in our public schools, reach proficiency at every grade level in 12 years. Now, that is a very high expectation, and so we have to be very careful not to tie the hands of our school districts, particularly since what

this bill does is a local shift of taxes, but then also speaks to how and when they might be able to raise revenues for the schools.

So let me just say, Madam President, this is really very important. If we are going to require more from our schools and demand performance and we are going to hold them accountable and may or may not fund them to do that, we certainly cannot tie their hands. It really is just saying that we are expecting failure, and that certainly is not something I would want to say, nor do I think any of my colleagues. So I hope we support this amendment.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. May we be at ease, Madam President?

The PRESIDENT. The Senate will be at ease.
(The Senate was at ease.)

C. WILLIAMS AMENDMENT A2065 WITHDRAWN

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, I would like to withdraw amendment A2065.

The PRESIDENT. Amendment A2065 is withdrawn.

And the question recurring,

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

C. WILLIAMS AMENDMENT A2065-A

Senator C. WILLIAMS offered the following amendment No. A2065-A:

Amend Sec. 1 (Sec. 614-A), page 15, by inserting between lines 15 and 16:

(8) To pay costs associated with implementing new unfunded federally mandated educational programs.

Amend Sec. 1 (Sec. 614-A), page 15, line 23, by striking out "OR (6)" and inserting: .(6), (7) or (8)

Amend Sec. 1 (Sec. 614-A), page 15, line 27, by striking out "or (6)" and inserting: .(6), (7) or (8)

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, the amendment is agreed to.

And the question recurring,

Will the Senate agree to the amendment?

It was agreed to.

And the question recurring,

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

C. WILLIAMS AMENDMENT A2129

Senator C. WILLIAMS offered the following amendment No. A2129:

Amend Title, page 1, line 7, by removing the period after "electors" and inserting: and for school district capital budget referenda.

Amend Sec. 1, page 1, lines 11 and 12, by striking out "an article" and inserting: articles

Amend Sec. 1 (Sec. 602-A), page 2, by inserting between lines 19 and 20:

"Consumer Price Index." The Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date that the proposed tax increase will be effective.

Amend Sec. 1 (Sec. 614-A), page 12, line 1, by striking out "Public referendum requirements" and inserting: Requirements

Amend Sec. 1 (Sec. 614-A), page 12, line 7, by striking out "unless there is compliance with subsection (c)."

Amend Sec. 1 (Sec. 614-A), page 12, line 11, by removing the period after "year" and inserting: or the percentage increase in the Consumer Price Index, whichever is greater.

Amend Sec. 1 (Sec. 614-A), page 12, lines 19 through 30; page 13, lines 1 through 13, by striking out all of said lines on said pages and inserting:

(c) Referendum.—In order to take an action under subsection (b)(2), at the primary election immediately preceding the fiscal year in which the proposed tax would take effect:

(1) a referendum stating the specific tax and rate to be levied must be submitted to the electors residing in the school district; and

(2) a majority of the electors voting on the referendum must approve the tax.

(d) Failure to approve referendum.—If there is no approval under subsection (c), the board of school directors may not levy the tax.

(e) Exceptions.—The provisions of subsection

Amend Sec. 1 (Sec. 614-A), page 13, line 25, by striking out "Referendum exceptions" and inserting: Court approval

Amend Sec. 1 (Sec. 614-A), page 15, line 7, by removing the period after "wage" and inserting: or the percentage increase in the Consumer Price Index, whichever is greater.

Amend Sec. 2, page 25, line 27, by striking out all of said line and inserting:

ARTICLE VII-A

SCHOOL DISTRICT CAPITAL PROJECT REFERENDA

Section 701-A. Scope.

This article relates to school district capital project referenda.

Section 702-A. Definitions.

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

"Capital project." A project which is financed by debt or by other funds and which meets all of the following:

(1) Is an undertaking to construct, repair, renovate, improve, equip, furnish or acquire any:

(i) building, structure or facility;

(ii) land or rights in land; or

(iii) furnishings, machinery, apparatus or equipment for a building, structure or facility.

(2) Has an estimated useful life in excess of five years.

(3) Has an estimated financial cost in excess of \$5,000,000 except construction or acquisition projects which shall have an estimated financial cost in excess of \$10,000,000.

"Governing body." A board of school directors of a school district.

"School district." Any school district, except a school district located in a city of the first class.

Section 703-A. Capital project resolution.

Notwithstanding any other law to the contrary, the governing body may seek authority to undertake a capital project by adopting a resolution to place a referendum on the ballot pursuant to section 4. The

governing body shall transmit a copy of the resolution to the appropriate election officials. Prior to approving the resolution the governing body shall:

(1) Give the public notice of its intent to adopt the resolution in a manner provided by section 704-A of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

(2) Conduct at least one public hearing regarding the capital project.

Section 704-A. Binding referendum.

(a) Referendum to be held.—A school district may undertake a capital project only by obtaining the approval of the electorate of the affected school district in a public referendum at the general or municipal election preceding the fiscal year when the capital project will begin. The election officials shall cause a question to be placed on the ballot at the first general or municipal election occurring at least 90 days after their receipt of the resolution required under section 703-A.

(b) Contents of question.—The referendum question must state the nature of the capital project, the cost of the capital project, any tax increases necessary to fund all or a portion of the capital project and the amount of any such tax increase. The question shall be in clear language that is readily understandable by a layperson. For purposes of illustration, a referendum question may be framed as follows:

Do you favor the school district undertaking a capital project, specifically (insert name/nature of the project), the cost of which will be \$ _____, and which will be funded in whole or in part by a X% increase in the following taxes: (insert taxes).

(c) Vote.—If a majority of the electors voting on the question vote "yes," then the governing body shall be authorized to undertake the capital project. If a majority of the electors voting on the question vote "no," the governing body shall have no authority to undertake the capital project.

(d) Voting procedures.—Proceedings under this section shall be in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

Section 705-A. Repeal.

All acts and parts of acts are repealed insofar as they are inconsistent with this article.

Section 2. This act shall take effect immediately.

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

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, this amendment would cap school district tax increases before a back-end referendum at either the Consumer Price Index or the percentage change in the State average weekly wage, whichever is higher. It provides for court approval to go above the cap, and it also requires certain school district capital projects to go through a referendum process. Their referendum would be initiated if the capital project that was fixing up or renewals would be up to \$5 million. If it was a new building or a new acquisition of property, the referendum would kick in at the \$10 million level. I think this would be a fair way to allow school districts to do what they need to do without the extra expense of going to referendum, and campaign referendum can be very costly. Campaigns can be very costly, as we know.

Thank you, Madam President.

The PRESIDENT pro tempore. May we stand at ease just for a moment, Madam President.

The PRESIDENT. The Senate is at ease.

(The Senate was at ease.)

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, after a review of the amendment, I respectfully ask for a negative vote. Madam President, we put a number of exceptions into the back-end referendum. In essence, what Senator Connie Williams' proposed amendment would do is destroy the back-end referendum and, in essence, go to the court for approval every time it exceeds the so-called cap as to whether taxes could be increased after the referendum had passed and an earned income tax had been levied. I believe, and I think that it is a legitimate concern, that with all the exceptions we put in, with all the protections that are there, this, in essence, destroys the intent of the bill, changes it completely, and I respectfully ask for a negative vote.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, I respectfully ask for a positive vote. Obviously, there are many people here who do not think a back-end referendum is a very good thing for the future of the Commonwealth.

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

The yeas and nays were required by Senator C. WILLIAMS and were as follows, viz:

YE A-20

Costa	Kitchen	Musto	Tartaglione
Ferlo	Kukovich	O'Pake	Wagner
Fumo	LaValle	Schwartz	Williams, Anthony H.
Hughes	Logan	Stack	Williams, Constance
Kasunic	Mellow	Stout	Wozniak

NAY-29

Armstrong	Greenleaf	Pileggi	Waugh
Boscola	Helfrick	Punt	Wenger
Brightbill	Jubelirer	Rafferty	White, Donald
Conti	Lemmond	Rhoades	White, Mary Jo
Corman	Madigan	Robbins	Wonderling
Dent	Mowery	Scarnati	
Earl	Orie	Thompson	
Erickson	Piccola	Tomlinson	

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 third consideration, as amended?

C. WILLIAMS AMENDMENT A2130

Senator C. WILLIAMS offered the following amendment No. A2130:

Amend Sec. 1 (Sec. 602-A), page 2, by inserting between lines 19 and 20:

"Consumer Price Index." The Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12-month period for which figures

have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date of the primary election at which the referendum will be submitted to the voters.

Amend Sec. 1 (Sec. 614-A), page 12, line 11, by inserting after "year": or in the percentage increase in the Consumer Price Index, whichever is greater

Amend Sec. 1 (Sec. 614-A), page 13, line 10, by inserting after "year": or the percentage increase in the Consumer Price Index, whichever is greater

Amend Sec. 1 (Sec. 614-A), page 13, line 17, by inserting after "year": or the percentage increase in the Consumer Price Index, whichever is greater

Amend Sec. 1 (Sec. 614-A), page 15, line 7, by inserting after "wage": or the percentage increase in the Consumer Price Index, whichever is greater

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

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Constance Williams.

Senator C. WILLIAMS. Madam President, this is my last amendment, and it changes the trigger for the back-end referendum to either the Consumer Price Index or the percentage change in the State average weekly wage, whichever is higher.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, the amendment is agreed to.

Senator MELLOW. Madam President, does the gentleman want to reconsider mine now, too?

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

The yeas and nays were required by Senator C. WILLIAMS and were as follows, viz:

YEA-48

Table with 4 columns of names: Armstrong, Boscola, Brightbill, Conti, Corman, Costa, Dent, Earll, Erickson, Ferlo, Fumo, Greenleaf, Helfrick, Hughes, Jubelirer, Kasunic, Kitchen, Kukovich, LaValle, Lemmond, Logan, Madigan, Mellow, Mowery, Musto, O'Pake, Orié, Piccola, Pileggi, Punt, Rafferty, Robbins, Scarnati, Schwartz, Stack, Stout, Tartaglione, Thompson, Tomlinson, Wagner, Waugh, Wenger, White, Donald, White, Mary Jo, Williams, Anthony H., Williams, Constance, Wonderling, Wozniak

NAY-1

Rhoades

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 third consideration, as amended?

JUBELIRER AMENDMENT A1957

Senator JUBELIRER offered the following amendment No. A1957:

Amend Title, page 1, line 7, by removing the period after "electors" and inserting: ; and further providing for the mandate waiver program. Amend Bill, page 25, by inserting between lines 25 and 26:

Section 2. Section 1714-B(g) of the act, added May 10, 2000 (P.L.44, No.16), is amended to read:

Section 1714-B. Mandate Waiver Program.—* * *

(g) The following provisions of this act shall not be subject to waiver pursuant to this section: sections 108, 110, 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1, 443, 510, 513, 518, 527, 701.1, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1303(a), 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361, 1366, 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546 and 1547; provisions prohibiting discrimination; Articles VI, VI-A, XI, XI-A, XII, XIII-A, XIV and XVII-A and this article.

* * *

Amend Sec. 2, page 25, line 27, by striking out "2" and inserting: 3

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

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, this amendment prohibits the Secretary of Education or anyone else in the Department of Education from waiving any of the provisions of this act without legislative approval.

Thank you, Madam President.

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

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

YEA-28

Table with 4 columns of names: Armstrong, Brightbill, Conti, Corman, Dent, Earll, Erickson, Greenleaf, Helfrick, Jubelirer, Lemmond, Madigan, Mowery, Orié, Piccola, Pileggi, Punt, Rafferty, Rhoades, Robbins, Scarnati, Thompson, Tomlinson, Waugh, Wenger, White, Donald, White, Mary Jo, Wonderling

NAY-21

Table with 4 columns of names: Boscola, Costa, Ferlo, Fumo, Hughes, Kasunic, Kitchen, Kukovich, LaValle, Logan, Mellow, Musto, O'Pake, Schwartz, Stack, Stout, Tartaglione, Wagner, Williams, Anthony H., Williams, Constance, Wozniak

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 third consideration, as amended?

BOSCOLA AMENDMENT A2249 OFFERED

Senator BOSCOLA offered the following amendment No. A2249:

Amend Title, page 1, line 7, by removing the period after "electors" and inserting: ; and allowing senior citizens to claim an exemption from tax increases as to certain real property.

Amend Sec. 1, page 19, by inserting between lines 17 and 18: Section 624-A.1. Exemption from property tax increases.

(a) General rule.—No political subdivision which imposes a real property tax on residential property shall increase the tax or the tax rate on the real property of an individual if all of the following apply:

(1) The individual is 65 years of age or older.

(2) The individual currently resides on the property as to which the exemption is claimed and has resided thereon for at least five consecutive years immediately prior to claiming the exemption.

(3) Neither the individual nor any other person with whom the individual owns the property by joint tenancy, tenancy in common or tenancy by the entireties is currently claiming or otherwise receiving an exemption under this section as to other property located in this Commonwealth.

(4) The individual's income, as defined in the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, is not more than \$65,000.

(b) Application for exemption.—The exemption allowed by subsection (a) may be claimed by filing with the political subdivision which imposes the tax a notarized statement containing all of the following:

(1) The applicant's name, residential address and Social Security number.

(2) A certification that the individual is 65 years of age or older, currently resides on the property as to which the exemption is claimed and has resided thereon for at least five consecutive years immediately prior to claiming the exemption.

(3) The names and Social Security numbers of all other owners of the property as to which the exemption is claimed.

(4) A certification that no taxes are in arrears as to the property.

(5) Evidence that the individual's income does not exceed \$65,000.

(c) Termination of exemption.—

(1) Except as provided in paragraph (2), the exemption allowed by subsection (a) shall be terminated, and the tax and tax rate shall become current upon sale or transfer of the property as to which the exemption is in effect, including a transfer under a recorded real property sales contract.

(2) The exemption from property tax increase shall not be terminated under paragraph (1) if the sale or transfer is to a joint owner, tenant in common or tenant by the entireties who is 64 years of age or older at the time of the sale or transfer and who is otherwise entitled to claim the exemption.

(d) Reimbursement by Commonwealth.—The Department of Revenue shall reimburse political subdivisions annually for the difference between the real property taxes imposed upon individuals who are receiving exemptions under this act and the tax liability which would have been imposed if the exemptions had not been granted.

(e) Applicability.—This section shall apply to the tax year beginning January 1, 2004, and to all subsequent tax years.

On the question,

Will the Senate agree to the amendment?

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

Senator BOSCOLA. Madam President, yesterday I offered an amendment to another bill which would freeze senior citizen property taxes. Today I am offering amendment A2249, which

freezes senior citizen property taxes at the age of 65, and it does have a fiscal note.

Madam President, we are talking about amending Senate Bill No. 100, which allows the local school districts to opt into a property tax reform measure. Now, some districts might do it, some districts might not, but that means that not every single senior citizen homeowner in Pennsylvania will benefit from Senate Bill No. 100. So I am trying to amend Senate Bill No. 100 to say, at least for every senior over 65 years of age, their property taxes will be frozen. They are the hardest hit senior citizens in local school property tax increases. And I want to share with my colleagues the fiscal note that was asked of me yesterday. The fiscal note shows that this freeze will help 700,000 senior citizens from future property tax increases, 700,000 senior citizens will see their property taxes frozen. The fiscal impact on these senior citizens will be tremendous. In fact, this amendment will save our seniors millions of dollars because it is estimated that property taxes will increase by about \$145 million over the next year. So it is a huge amount of money for all Pennsylvania homeowners who have to pay, but it is especially hard for our older Pennsylvanians.

So the bottom line is, look at the human costs involved when senior citizens are literally being taxed out of their homes. According to the fiscal note, the cost to the Commonwealth for freezing property taxes will be estimated at \$26 million. Madam President, this represents a fraction of the \$900 million in Federal funds that will be budgeted this fiscal year. So in order to freeze property taxes for senior citizens, we need \$26 million. We already have \$900 million coming from the Federal government, so that means we do not need a tax increase to help our senior citizens. We can just do it. But to somebody who is living on a fixed income, it may be the only way that they can afford to stay in their homes, so we are not talking about a huge expense to the Commonwealth, we are talking about funding that would be budgeted and reflected in the General Fund budget, and we are really talking about making a huge difference for those seniors who are struggling to pay their property taxes each and every year. I ask for an affirmative vote.

Thank you, Madam President.

BOSCOLA AMENDMENT A2249 TABLED

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Madam President, as I read the amendment, it says, "Exemption from property tax increases...No political subdivision which imposes a real property tax on residential property shall increase the tax or the tax rate on the real property of an individual if all of the following apply." I want to point out, it says "No political subdivision." We are talking about school property taxes here today, we are talking about education funding. This is much broader, it gets into counties and municipalities, and again, it is a laudable goal, but I think this is broader than the discussion we are having today. And when it gets into an issue that takes a little more, I think, discussion, it is probably better left for the committee structure to handle. I would say this is not the appropriate time to deal with it since it is much broader than the educational funding we are

talking about today, and I would say we probably would have some constitutional questions as a result of this amendment. Since we are trying to stick to the educational funding, I would suggest that, well, I make a motion that we table this amendment at this time, Madam President.

Thank you, Madam President.

The PRESIDENT. Senator Corman moves that the amendment be tabled.

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

Senator CORMAN. Madam President, I think a roll call is appropriate at this time.

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

Senator MELLOW. Madam President, I did not hear the gentleman move to table. I heard him say he suggests it be tabled, so, Madam President, that is not before us at this time, and I believe what is before us is the substance of the amendment that has been offered by Senator Boscola. Her amendment is very clear, and I only hope that we are not going to play this Mickey Mouse game because the Republicans do not want to vote on an amendment and hide behind a parliamentary move like they did yesterday and table the amendment. Senator Boscola is an elected Member of this Senate, she has every right to offer an amendment, like every other Member in this body.

Senator BRIGHTBILL. Madam President, point of order.

Senator MELLOW. Madam President, we are not going to sit back and allow this to happen.

Senator BRIGHTBILL. Madam President point of order.

The PRESIDENT. Would the gentlemen yield.

The Senate will be at ease at moment. Would the leaders come up to the rostrum, please.

(The Senate was at ease.)

The PRESIDENT. On the motion to table the amendment, which is not debatable, for what purpose does the gentleman rise?

Senator RHOADES. A question of inquiry. Who does that time out get charged to?

Senator MELLOW. Pottsville.

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

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

YEA-27

Armstrong	Helfrick	Pileggi	Tomlinson
Brightbill	Jubelirer	Punt	Waugh
Conti	Lemmond	Rafferty	Wenger
Corman	Madigan	Rhoades	White, Donald
Dent	Mowery	Robbins	White, Mary Jo
Earl	Orie	Scarnati	Wonderling
Erickson	Piccola	Thompson	

NAY-22

Boscola	Kasunic	Musto	Wagner
Costa	Kitchen	O'Pake	Williams, Anthony H.
Ferlo	Kukovich	Schwartz	Williams, Constance

Fumo	LaValle	Stack	Wozniak
Greenleaf	Logan	Stout	
Hughes	Mellow	Tartaglione	

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

The PRESIDENT. Amendment A2249 will be laid on the table.

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

BOSCOLA AMENDMENT A2231

Senator BOSCOLA offered the following amendment No. A2231:

Amend Title, page 1, line 7, by removing the period after "electors" and inserting; ; and repealing the authority to levy real property tax.

Amend Bill, page 25, by inserting between lines 25 and 26:

Section 2. Notwithstanding the provisions of any other law to the contrary, no school district may levy real property taxes for any purpose after June 30, 2004, for any school year beginning July 1, 2004, or thereafter. The provisions of this section shall not prohibit a school district from collecting previously levied real property taxes that are overdue or delinquent.

Amend Sec. 2, page 25, line 27, by striking out "2" and inserting:
3

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

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

Senator BOSCOLA. Madam President, I have a feeling that this amendment will see the same fate my last amendment did, but I am going to try, because yesterday the gentleman from Lebanon County kindly instructed me on how to make a good amendment even better, and he even gave me some words of advice on how not to take things on this Senate floor too personally, which I am truly grateful for, and he actually inspired me very much.

So last night I took all of his suggestions and incorporated them into a single amendment. This amendment is still intended to eliminate local school property taxes by a date certain. That date certain is July 1, 2004. The amendment I offered yesterday stopped school districts from levying or collecting local property taxes, but in the interest of making sure that school districts can still recover owed delinquent taxes, I have removed the prohibition against collecting any overdue taxes. In the interest of making this amendment less vague to the Majority Leader, I went beyond that to further address the concern. So I have also inserted language in this amendment stating that no school district can impose property taxes for any school year beginning July 1, 2004, or thereafter. That is just to clarify things and to prove under this amendment that the days until the demise of the most hated tax in Pennsylvania are definitely numbered. In fact, that is only 373 days away, in case you want to mark your calendar. I trust that the gentleman from Lebanon will accept these improvements in the same spirit in which I accepted his

suggestions for making a good amendment even better. And again, I want to thank the gentleman for his suggestions, as well as for his kind and gentle words, especially because when you are a younger Member of this body, sometimes you need the advice of somebody who has been around for a little longer than you, and I look forward to support on this amendment.

Once again, Madam President, it is time for us to admit that we have run out of excuses, just like on the last amendment, another excuse for not doing something. This amendment does not remove any funding from the school funding bill that was passed last night. This amendment does not add any funding to the school funding bill that was passed last night. Madam President, I urge my colleagues to vote in favor of eliminating local school property taxes now.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, right now the school districts of the Commonwealth of Pennsylvania levy real estate taxes of \$7.2 billion, and just to give that \$7.2 billion a little perspective, the total State budget is about \$21 billion. To replace the income to the school districts of this \$7.2 billion would require that we somehow send from the State roughly one-third of our budget, which would require an increase of the personal income tax of at least 3 percentage points. If this provision is adopted, there is no provision to raise that tax levy, nor is there any provision to send that money to the school districts. If we in the State of Pennsylvania were going to eliminate school taxes by doing that, it could be done in theory, but it would take a far more comprehensive provision to do that.

Now, the irony of this gentlewoman's amendment is that it is being offered to Senate Bill No. 100, which is a tax reform proposal. Now, I gather after listening to her floor debate earlier this evening that she does not like this tax reform proposal. But it is a proposal that will shift real estate taxes to wage taxes, with the approval of local voters. So we are not dodging this issue. We are squarely facing this issue. All that this amendment would do, if placed in this bill, and if sent to the House and passed by the House and adopted and signed by the Governor, would be to create chaos. And once again, the victims of that chaos would be the children of the Commonwealth of Pennsylvania. We may have some disagreements on how to transfer the real estate tax burden to either the wage tax or the personal income tax, and that is a legitimate debate that we have here tonight, but we cannot do it in a fashion that holds these children hostage, we must hold them harmless.

So, Madam President, I ask for a negative vote, because we are dealing with the problem, and I suggest that an ultimate "aye" vote on Senate Bill No. 100 begins the process, with local referendum and local control, of moving us from real estate taxes to a wage tax. This is going to be a long process. This bill is going to go from here to the House of Representatives, it is going to be debated and amended there, but the process has to start. Senator Boscola's amendment guts the process. It ends this process right here tonight, and I ask for a negative vote.

Thank you, Madam President.

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

Senator BOSCOLA. Madam President, you know, this is exactly what another State, Michigan, did when they wanted to deal with the property tax issue. They eliminated property taxes altogether, came up with a date certain, so that the legislature could come up with a menu of taxes that the voters might accept. And what I am trying to accomplish here is what other Members have been trying to accomplish when they submitted bills that talked about what type of tax mix would work in Pennsylvania once you eliminate property taxes. There is nothing in this bill that says we need a 3-percent personal income tax increase. If you look at the revenue streams that I have offered in several bills, I have talked about other revenue sources and so has the Governor, because you do not want to rely heavily on a personal income tax. It will overburden another segment of our population that will not be able to handle it, but that is the legislature's job to do, come up with an alternative method of coming up with revenue sources, a menu of sources that would spread the burden across this Commonwealth on who pays.

So what I am only trying to do, and maybe it is a little bit of chaos, but for 30 years we have done nothing on property tax relief, and maybe this body needs a little bit of chaos, because that is the only way we are going to get some things done. What you are doing in Senate Bill No. 100 does not guarantee property tax relief for every Pennsylvanian, because some school districts might opt in and some school districts might not opt in. So for all those people in school districts where they did not opt in, they will not get any property tax relief. Plus, in Senate Bill No. 100, you will have some school districts taxing earned income, some districts taxing property, some taxing both, and I think that is chaos. I think that is chaos for this Commonwealth when you have certain school districts taxing one way and other school districts taxing another way. The business community does not even like it because they cannot figure out which taxes to pay to the local government or to the school districts. So it is chaos when you talk about Senate Bill No. 100. At least with the Mellow amendment, we would have had a uniform way of property tax reduction, and that is what I am trying to do, have the State pick up the burden of who pays for our schools. It is that simple, it is not that complicated, and I am more than confident that within a given year we, in this legislative body, can come up with a tax mix that makes sense and spreads the burden of who pays, so we are not in the situation that we are in today, where seniors are literally being taxed out of their homes. It is not fair to them, and what I am trying to do is help them.

So in the good spirit of this amendment, and I thank the Majority Leader, I do ask for an affirmative vote.

Thank you, Madam President.

Senator BRIGHTBILL. Madam President, could we stand at ease please.

The PRESIDENT. The Senate is at ease.

(The Senate was at ease.)

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

The Senator BRIGHTBILL. Madam President, would the gentlewoman from Northampton stand for interrogation?

The PRESIDENT. She indicates that she will.

Senator BRIGHTBILL. Madam President, the lady indicated I believe that a little bit of chaos would be good for the State.

Was that what the gentlewoman said?

Senator BOSCOLA. Madam President, yes, I did.

Senator BRIGHTBILL. Madam President, the gentlewoman said that there would be a need to replace the revenue, the \$7.2 billion, that would be lost through real estate taxation. Is that correct?

Senator BOSCOLA. Madam President, correct.

Senator BRIGHTBILL. Madam President, what would the gentlewoman suggest as to how to fill that revenue void?

Senator BOSCOLA. Madam President, there have been so many different proposals offered by the Republicans in the Senate, Democrats in the Senate, Democrats in the House, and Republicans in the House. For the last 20 to 30 years, there have been people offering suggestions on how to reduce property taxes or eliminate property taxes and come up with a tax mix. If you want to tie me into saying, well, this is the way we should go, I think we should tax beer or we should have slots at racetracks, I am not about to go there because that is what a deliberative body does.

When you eliminate property taxes, you come up with a tax mix and you talk to the people back home about what they are willing to accept. In Michigan, the voters had to decide whether or not they wanted to opt into a personal income tax increase or into a menu of other taxes. They chose the menu of other taxes, because it did spread the burden more across the Commonwealth into all taxpayers and into certain groups who work, for instance. And I offered my own bill that talked about a good schools fee, slots at racetracks, real estate transfer tax, all these things. So it is out there. You can look at it anytime you want. But it is a proposal to be debated and for you to look at, Democrats to look at, and then maybe pick one or two tax sources from my bill, maybe one or two from Senator Rhoades' bill, maybe one or two from Senator Logan's bill, and that is what we are supposed to do. So that is what I am driving at. That is what I am trying to strive for, the dialogue. Eliminate the property taxes and come up with a fairer way of taxing our public school system instead of Senate Bill No. 100, which does not guarantee anything, and some people will not see a property tax reduction.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, what I believe I heard the gentlewoman say is, a little bit of chaos is a good thing. My understanding of what happened in Michigan is they ended up again with real estate taxes, and my understanding is that they were imposed at the State level and they are going up. That being said, yes, this is a deliberative body, but I think that anyone who wants to eliminate \$7.2 billion of real estate taxes ought to be able to come forward at the same time and specifically say what his or her proposal would be to fill that gap. What I heard the gentlewoman debating and saying is that we should eliminate, we should vote "aye" to eliminate these taxes, and then the rest of us have to go figure out how to fill the gap. Well, I do not think that is an adequate reason to vote "aye." I think in the final analysis, Madam President, we do need to be responsible, and I believe that Senate Bill No. 100 is a responsible proposal. It has advantages, it has disadvantages like every proposal that we are going to see. But the advantages of Senate Bill No. 100 are that it provides flexibility in the local schools. It is not "one size fits

all," it is not a mandate from the State, and it provides tax shifting but it provides tax shifting within the local school districts.

We want to vote this bill, and we believe that we need to move this process forward by voting Senate Bill No. 100 as amended. Tonight we are working on the amendment process. As I said before, the amendment offered by the gentlewoman to eliminate real estate taxes for schools just simply guts the process. It is a mockery of the process, it is a mockery of the problem. It mocks senior citizens. In essence, it is saying to senior citizens, we think you are foolish because we think that you are going to buy this, that we can just simply pass a law and eliminate real estate taxes without having some proposal to substitute. Madam President, this institution, I believe, is being mocked by this amendment, and I again ask for a negative vote.

Thank you, Madam President.

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

Senator BOSCOLA. Madam President, you know, I really do not mind if the other side of the aisle, the Republicans in this instance, want to vote "no." You know, I understand. But I do not like it when things are misinterpreted. For instance, I do have a bill in that replaces all the revenue. So please do not tell me that I want to eliminate property taxes and I have no way of replacing the revenue. I do have my own bill in to do that, and that calls for a good schools fee, net profit tax on businesses, a real estate transfer tax, and slots at racetracks, so I do have a way of replacing the revenue, so please do not say that I do not. And there are other Senators who have proposals to replace all that revenue in this Senate, but there are also Members in the House.

And as far as being a mockery, you know, Madam President, we have done nothing on property taxes for 30 years now. And if other States can eliminate property taxes and come up with a system of funding their public schools, then so can we, and I do not think that that is a mockery at all. I think if we can follow the lead that other States have taken in doing property tax reform in this way, that is not a mockery. In fact, finally, maybe we would be getting something done. So you can vote "no" to eliminate property taxes. You can vote "no," just like you did to not support the property tax freeze for seniors. But please do not tell me that I do not have a plan in place to replace that revenue, because I do, and all I am asking is for the other side to look at it and debate it on its merits.

Thank you, Madam President.

And the question recurring,

Will the Senate agree to the amendment?

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

YEA-21

Boscola	Kitchen	O'Pake	Williams, Anthony H.
Costa	Kukovich	Orie	Williams, Constance
Ferlo	LaVale	Stack	Wozniak
Fumo	Logan	Stout	
Hughes	Mellow	Tartaglione	
Kasunic	Musto	Wagner	

NAY-28

Armstrong	Greenleaf	Pileggi	Thompson
Brightbill	Helfrick	Punt	Tomlinson
Conti	Jubelirer	Rafferty	Waugh
Corman	Lemmond	Rhoades	Wenger
Dent	Madigan	Robbins	White, Donald
Earll	Mowery	Scarnati	White, Mary Jo
Erickson	Piccola	Schwartz	Wonderling

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 third consideration, as amended?

GREENLEAF AMENDMENT A2334

Senator GREENLEAF offered the following amendment No. A2334:

Amend Sec. 1 (Sec. 614-A), page 15, by inserting between lines 2 and 3:

(6) The basic education funding allocation and special education funding allocation to the school district from the Commonwealth for the year in which the tax rate increase would take effect is equal to or less than the basic education funding allocation and special education funding allocation to the school district for the preceding fiscal year.

Amend Sec. 1 (Sec. 614-A), page 15, line 3, by striking out "(6)" and inserting: (7)

Amend Sec. 1 (Sec. 614-A), page 15, line 23, by striking out "(4) or (6)" and inserting: (4), (6) or (7)

Amend Sec. 1 (Sec. 614-A), page 15, line 27, by striking out "(4) or (6)" and inserting: (4), (6) or (7)

Amend Sec. 2, page 25, line 27, by striking out all of said line and inserting:

Section 2. The addition of section 614-A(f)(6) of the act shall apply to school districts in which a referendum question under 53 Pa.S. § 8703 has been approved and implemented.

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 Montgomery, Senator Greenleaf.

Senator GREENLEAF. Madam President, I rise to offer an amendment for an exception to the back-end referendum which would provide that the amount for the Commonwealth basic education funding and special education funding allocations are frozen or equal to the previous year or less than the previous year, and the following year a tax increase may be imposed without a back-end referendum.

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

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

RHOADES AMENDMENT A2096

Senator RHOADES offered the following amendment No. A2096:

Amend Title, page 1, line 5, by inserting after "thereto,"; providing for revenue sources and taxing authority for funding public schools; establishing the Educational Trust Fund; providing for Fairness in Education Funding State Revenue Report; mandating local tax relief;

Amend Title, page 1, line 7, by removing the period after "electors" and inserting: ; defining terms for Commonwealth reimbursement of school districts; and providing for fairness in educational funding.

Amend Sec. 1, page 1, lines 11 and 12, by striking out "an article" and inserting: sections

Amend Sec. 1, page 1, by inserting between lines 12 and 13:

Section 698. Revenue Sources for Funding of Public Schools.—(1) In addition to the tax imposed under section 302 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," every resident individual, estate or trust shall be subject to, and shall pay to the Commonwealth for the privilege of receiving each of the classes of income as enumerated in section 303 of the "Tax Reform Code of 1971," a tax upon each dollar of income received by that resident during that resident's taxable year at the rate of two per centum (2%).

(2) In addition to the tax imposed under section 302 of the "Tax Reform Code of 1971," every nonresident individual, estate or trust shall be subject to, and shall pay to the Commonwealth for the privilege of receiving each of the classes of income enumerated in section 303 of the "Tax Reform Code of 1971," a tax upon each dollar of income received by that nonresident during that nonresident's taxable year at the rate of two per centum (2%).

(3) Revenues generated as a result of the tax levy in clauses (1) and (2) shall be dedicated for the purpose of funding basic education programs pursuant to section 2502.41 and for the purpose of funding the Educational Trust Fund under section 699.

(4) The provisions of Article III of the "Tax Reform Code of 1971" shall apply to clauses (1) and (2).

Section 699. Educational Trust Fund.—(a) The Educational Trust Fund is established as a restricted receipts account in the State Treasury.

(b) Beginning July 1, 2004, and each fiscal year thereafter, funds accruing to the Commonwealth under section 698 in excess of the amount required to provide school districts with payments under section 2502.41 shall be deposited in the Educational Trust Fund.

(c) The moneys of the Educational Trust Fund and any interest income accruing thereon may be transferred by the Governor to the General Fund in amounts equal to those required to further provide for payments to school districts pursuant to section 2502.41.

(d) The General Assembly may appropriate funds over and above the amounts required pursuant to subsection (c) for the purpose of funding basic education programs only through approval of a separate appropriation bill by a vote of two-thirds of the members elected to the Senate and the House of Representatives. Any funds appropriated according to this subsection which lapse shall be returned to the Educational Trust Fund.

Section 699.1. Fairness in Education Funding State Revenue Report.—No later than October 1, 2003, and each year thereafter, the Department of Education, in coordination with the Department of Revenue and Office of the Budget, shall provide the Governor, the State Treasurer, the Appropriations Committee and the Education Committee of the Senate and the Appropriations Committee and the Education Committee of the House of Representatives with a report, to be known as the Fairness in Education Funding State Revenue Report. The report shall summarize revenue forecasts and projected expenditures for the fiscal year following the year in which the report is provided and shall include all of the following information:

(1) The basic education funding each school district is estimated to receive for the fiscal year beginning July 1 following the year in which the report is provided based on the distribution methodology contained in section 2502.41.

(2) The actual percentage increase in the median actual instructional expense per average daily membership as defined in section 2501 between the third fiscal year prior to the year in which the

report is provided and the second fiscal year prior to the year in which the report is provided.

(3) The total State tax revenues from all sources required to provide school districts with payments under section 2502.41.

(4) The estimated State tax revenues that are projected to be generated under section 698(1) and (2).

(5) The estimated State tax revenues that are projected to be generated under section 698(1) and (2) and deposited in the Educational Trust Fund established under section 699.

Section 699.2. Mandatory Local Tax Relief.—(a) (1) For the fiscal year commencing July 1, 2004, each board of school directors and the city council of a city of the first class shall reduce any local taxes levied for the purpose of funding school district programs by an amount equal to the difference between the amount received from the Commonwealth pursuant to section 2502.41 and the amount received from the Commonwealth pursuant to the distribution methodology in effect two (2) years prior to the year in which payment under section 2502.41 is made. Local taxes shall be reduced in the following manner:

(i) Providing a farmstead property exclusion and a homestead property exclusion under 53 Pa.C.S. § 8586 (relating to limitations).

(ii) After applying subclause (i), reducing or eliminating any tax authorized or permitted under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act" or, in the case of a city of the first class, any tax imposed on the wages of residents and nonresidents under the authority of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, in amounts equal to the difference between the amount received from the Commonwealth under section 2502.41 and the amount of tax reduction provided under subclause (i).

(iii) After applying subclause (ii), reducing the rate of the real property tax.

(2) Nothing in this subsection shall be construed to prohibit a board of school directors or a city council of a city of the first class from utilizing local taxes to fund school district programs, provided that the board of school directors or city council has first reduced local taxes as required by clause (1).

(b) Except as set forth in subsection (f), unless there is compliance with subsection (c) for the fiscal year commencing July 1, 2004, a board of school directors or city council of a city of the first class may not do any of the following:

(1) Increase the rate of a tax levied for the support of the public schools by more than the percentage increase in the Statewide average weekly wage in the preceding year.

(2) Levy a tax for the support of the public schools which was not levied as of the effective date of this section.

(c) (1) In order to take an action under subsection (b)(1), at the primary election immediately preceding the fiscal year in which the proposed tax increase would take effect:

(i) a referendum stating the specific rate or rates of the tax increase must be submitted to the electors residing in the school district; and

(ii) a majority of the electors voting on the referendum must approve the increase.

(2) In order to take an action under subsection (b)(2), at the primary election immediately preceding the fiscal year in which the proposed tax would take effect:

(i) a referendum stating the specific tax and rate to be levied must be submitted to the electors residing in the school district; and

(ii) a majority of the electors voting on the referendum must approve the tax.

(d) (1) If there is no approval under subsection (c)(1)(ii), the board of school directors may approve an increase in the tax rate of not more than the percentage increase in the Statewide average weekly wage in the preceding year.

(2) If there is no approval under subsection (c)(2)(ii), the board of school directors may not levy the tax.

(e) The provisions of subsection (b)(1) shall not apply to an increase in the rate of any tax levied for the support of the public schools which is less than or equal to the percentage increase in the Statewide average weekly wage in the preceding year.

(f) The provisions of subsection (b)(1) shall not apply to an increase in the rate of any tax levied for the support of the public schools if the increase is necessary to respond to one or more of the

following conditions:

(1) To respond to or recover from an emergency or disaster declared pursuant to 35 Pa.C.S. § 7301 (relating to general authority of Governor) or 75 Pa.C.S. § 6108 (relating to power of Governor during emergency), only for the duration of the emergency or disaster and for the costs of the recovery from the emergency or disaster.

(2) To implement a court order or an administrative order from a Federal or State agency that requires the expenditure of funds that exceed current available revenues, provided that the rate increase is rescinded following fulfillment of the court order or administrative order.

(3) (i) Pay interest and principal on any indebtedness incurred subsequent to the effective date of this section for the purpose of financing projects pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) or for the refinancing of existing debt, including the payment of costs and expenses related to such refinancing and the establishment or funding of appropriate debt service reserves. The increase shall be rescinded following the final payment of interest and principal.

(ii) The exception provided under this clause may not be applied in lieu of a referendum under subsection (c) to pay for costs which could not be financed by the issuance of debt.

(4) To respond to conditions that pose an immediate threat of serious physical harm or injury to the students, staff or residents of the school district, but only until the conditions causing the threat have been fully resolved.

(5) Special purpose tax levies approved by the electorate.

(6) Meet extraordinary, additional expenses relating to the provision of services to exceptional children as required by Federal and State laws and regulations, including expenses for the addition of classes, personnel and special purpose equipment and the placement of exceptional children in special schools or residential programs.

(7) (i) Maintain the actual instructional expense per average daily membership in amounts equal to the actual instructional expense per average daily membership in effect for the preceding school year.

(ii) This clause shall apply only if the Commonwealth fails to provide the basic education funding in the amount referenced in the report required under section 699.1 of this act.

(g) As used in this section, the term "Statewide average weekly wage" means the amount determined annually for each calendar year by the Department of Labor and Industry under section 105.1 of the act of June 2, 1915 (P.L.736, No.338), known as the "Workers' Compensation Act."

Section 2. The act is amended by adding an article to read:

Amend Bill, page 25, by inserting between lines 25 and 26:

Section 3. Section 2501(11.1) of the act, added February 1, 1966 (1965 P.L.1642, No.580), is amended and the section is amended by adding clauses to read:

Section 2501. Definitions.—For the purposes of this article the following terms shall have the following meanings:

(11.1) "Actual Instruction Expense per Weighted Average Daily Membership." For the school year 1966-1967, and each school year thereafter, the Superintendent of Public Instruction shall calculate for each school district the actual instruction expense per weighted average daily membership for each district pupil. The actual instruction expense shall include all General Fund expenses of the district except those for health services, transportation, debt service, capital outlay, home-bound instruction, and outgoing transfers to community colleges and technical institutes. From this cost shall be deducted the amount received from the State for driver's education; special class operation; vocational curriculums; area vocational technical schools; payments of tuition by district patrons, parents, the State and Federal government; and all moneys received from the State or Federal government [under Public Laws 89-10 (Elementary and Secondary Education Act), 88-452 (Economic Opportunity Act), and 87-415 (Manpower Training and Development Act) and] for projects under section 2508.3 of this act. The actual instruction expense so determined, when divided by the weighted average daily membership for the district shall be the actual instruction expense per weighted average daily membership.

(24) "Actual Instructional Expense Per Average Daily

Membership." The actual instructional expense shall include all General Fund expenses of the school district except those for health services, transportation, debt service, capital outlay, home-bound instruction and outgoing transfers to community colleges and technical institutes. From this cost shall be deducted the amount received by the school district from the Commonwealth for driver's education, special class operation, vocational curriculums, area vocational-technical schools, payments of tuition by district patrons, parents, the Federal and State Government and all moneys received from the Federal and State Government and for projects under section 2508.3 of this act. The actual instructional expense so determined, when divided by the average daily membership for the school district, shall be the actual instructional expense per average daily membership (AIE/ADM).

(25) "Median Actual Instructional Expense Per Average Daily Membership." The median actual instructional expense per average daily membership shall be the product of arraying the actual instructional expense per average daily membership for each school district in this Commonwealth from the highest to lowest and selecting the actual instructional expense per average daily membership that would be the mid-point of all of the students of the State for which fifty percent (50%) of the school districts' average daily membership would be below and fifty percent (50%) of the school districts' average daily membership would be above. For the school year 2004-2005 and each school year thereafter, the calculated median actual instructional expense per average daily membership shall be the median actual instructional expense per average daily membership for the fiscal year two (2) years prior to the year in which payments under section 2502.41 are made.

(26) "Personal Income Factor." Each school district shall be assigned a personal income factor assigned by the Department of Education to each school district based on the result of a calculation to determine personal income valuation per average daily membership. Based on this calculation, each school district shall be assigned a personal income factor pursuant to the following table:

<u>Personal Income per Average Daily Membership</u>	<u>Personal Income Factor</u>
Greater than \$142,273	0
\$109,787 - \$142,273	100
\$90,947 - \$109,786	200
\$78,444 - \$90,946	300
\$68,195 - \$78,443	600
\$0 - \$68,194	900

Section 4. The act is amended by adding a section to read: Section 2502.41. Fairness in Education Funding System for Education.—(a) For the school year 2003-2004, and each school year thereafter, the Secretary of Education shall calculate:

(1) The actual instructional expense per average daily membership as defined in section 2501(24) for each school district.

(2) The median actual instructional expense per average daily membership as defined under section 2501(25).

(3) The personal income per average daily membership for each school district and assign each school district a personal income factor as defined under section 2501(26).

(b) For the school year 2003-2004, and each school year thereafter, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:

(1) A base supplement calculated by multiplying the median actual instructional expense per average daily membership by eighty percent (80%) and multiplying that product by the school district's average daily membership.

(2) (i) An equity supplement, if the school district provides local tax effort equal to or greater than an amount calculated by multiplying the median actual instructional expense per average daily membership by twenty percent (20%), multiplying this product by the difference between 1.0 and the school district's market value/income aid ratio, and multiplying this product by the school district's average daily membership.

(ii) The equity supplement shall be calculated by multiplying the median actual instructional expense per average daily membership by twenty percent (20%), multiplying this product by the school district's market value/income aid ratio, and multiplying this product by the school district's average daily membership.

(3) (i) A personal income factor supplement, if the school district has personal income per average daily membership of one hundred forty-two thousand two hundred seventy-three dollars (\$142,273) or less as calculated by the Department of Education.

(ii) The personal income factor supplement is calculated by multiplying the personal income factor assigned to the school district by the school district's average daily membership.

(c) Each school district shall annually report to the Secretary of Education the amount of its total local tax effort for the purpose of calculating the local tax effort required to qualify for the equity supplement under subsection (b)(2). The reports shall be filed with the secretary no later than February 1 of the school year prior to the year in which payments are to be made. Failure to file the report as required in this subsection shall make a school district ineligible for the equity supplement.

Section 5. The additional tax imposed by section 698(1) and (2) of the act shall apply to taxable years beginning after December 31, 2002.

Amend Sec. 2, page 25, line 27, by striking out "2" and inserting: 6

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

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, I know the hour is late. It is now quarter after 9:00, everybody wants to go home, no one wants to pay attention, and I can basically say what everyone has said I can say ditto to, and your answer is right here. From the standpoint of those who have said we only should tax those able to pay, to the fact of equality, to the state of adequacy, it is here. What was funny, as I sat back there and looked around this hall, I began to hear echoes of 1874, because that is the date of the Constitution that introduced a cohesive system of public education. And records of debate from the Constitutional Convention indicate the delegates believed that the phrase "thorough and efficient system of education" suggested a symmetry and uniformity that they desired. So put within our Constitution was, "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth, above the age of six years, may be educated...." In 1874, the Pennsylvania Constitution said, "The State asserted its authority over all the schools in this State, culminating a century-long evolution towards a cohesive and uniform school system that mandated attendance." And I note, following the adoption of the Constitution of 1874, "Funding for the State schools was seen as a responsibility of State government." And now, 100 years later, we look at 1970-71, and State government provided 54.2 percent of the instructional expenses for schools. In the year 2000-01, that percentage had fallen to 35.4. In those 30 years, school districts have had to raise \$1.8 billion in local property taxes to make up for the reduction in State education funding.

You have an opportunity today, and I will offer it, too, if you concur in this amendment, you will fulfill your constitutional duty that says, "The General Assembly," not the Governor, not the courts, but, "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth." Even the judicial system has, in many cases across this nation, ruled differently, Pennsylvania's has not. I talk about the PARSS decision in which they said, "The responsibility falls within the

General Assembly." Well, folks, tonight you have an opportunity to address that issue squarely and begin to make a difference with funding our schools in a very equitable manner.

You have all talked about different objects that should be in your particular proposals. I offer to you that there are a series of proposals, equity being one, horizontal equity, which means we treat equals as equals, vertical equity, which means we treat unequals as unequals, adequacy, and a number of other things. They are all addressed in the copies that I have handed out to you so you can see what your districts would receive. Every Member of the Senate received a copy of the Fairness in Education Funding Act. This would reduce school taxes 68.7 percent to a high of 91.5 in the highest district, to 30.1 in the lowest district. It would require the courage to vote for a 2-percent increase in the personal income tax. I am not depending upon slots, I am not depending upon racetracks, or anything else, I am saying upfront 2 percent. That money will be put into an educational trust fund, and then every year we, in conjunction with the Governor, would allocate that money back out.

Now there is another difference, too. We use a number called the median actual instructional expense, which this year is \$5,777. If you remember ESBE, it is still at \$2,225, so you can see that there is a great hole between what we provide and what we require local taxpayers to pay.

Every October the Secretary of Revenue, the Office of the Budget, in conjunction with the Governor, the State Treasurer, the Committees on Appropriations of the House and Senate and the Committees on Education of the House and Senate will certify that number. That number will be the key that we use, and if we do not provide that money, then local districts do not have to follow the back-door referendum. It tells us once and for all, instead of us backing into a formula, the reality of putting a formula up and putting our money where our mouth is. We will not then go from 54.2 percent to 34 percent. Under that, there will be four tiers in there. The equity of it is that you will multiply \$5,777 by every student in your school district times 80 percent. Everyone gets that. That is equity.

In tier two, we treat the unequals as unequals when we multiply \$5,777 by ADM, by the inverse of your ratio by 20 percent. That is your local match. The State will match that.

And then in the third tier, if you have an education difficulty, and we address that as poverty, single parents, adults over 25 who do not have a high school diploma, we have found out in schools where that is prevalent, Dr. Cooley from the University of Pittsburgh said, you have a problem in terms of educating these boys and girls. We had to modify that because two of those points only come out in a census every 10 years, so we took what that cost was, went into the personal income, because if you are a single parent, if you are in poverty and you do not have an education, you are not making much money. We indexed that out, and then using that index based on tiers, assigned hundreds of dollars to it. You multiply the number of hundred dollars by the category you are in, by the boys and girls that you have, that is the third tier.

And the fourth tier, if you are not complete in that, allows you to raise any additional funds that you need. There is a back-door referendum in here, and it is as equitable as what you will see in Senate Bill No. 100 and is what many people have

recommended. The difference here, I actually had four options available. Option four was a PIT and a sales tax, that would apply to one. Option three was just a PIT of 1.07 to fund at 30 percent, we would have had 196 districts that would have had to pay more by that option. Under option two, where we went to 50-percent funding, we would have had 152 districts pay more. But under this proposal, out of the 501 districts, only 94 will pay more. You are going to have 407 districts that will get more funding out of this. We will be able to reduce taxes on a range from 91 to 30 percent, with the average being about 68.

Now, where is the courage? Being able to vote for a 2-percent increase in the PIT. And folks, you have heard it enough tonight. You have said those who can pay will. We will be moving and shifting the money from a property tax to a personal income tax. The other thing is, with all those things being put together, that answers the fact of 30 percent, and adds the points of an EIT, that talks about having those pay who can, but it also gives equity to our kids, because now we are beginning to fund at the level we should and the State is getting back up to being above that 50 percent where we should be. As I said, these halls echoed over 100 years ago. I think it is about time that we have the same kind of echo and commitment and support this amendment.

Thank you, Madam President.

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

Senator SCHWARTZ. Madam President, I just rise to state my opposition, or at least my intention to vote "no," stating my opposition may be too strong, but I do think that my good colleague, the chairman of the Committee on Education, raises some very, very important issues before us, and I know has worked so hard for a number of years to really bring to the floor a very concrete proposal that would do something that we really have not even discussed tonight at all, and that is to really do two things. One is to address the issue of equity in funding education in the State and, two, to talk about increasing the funding and the State's commitment to funding education in the State.

So I very reluctantly will be voting "no" on this because I do think that this particular moment in time is when we ought to be really negotiating something as complicated as the way we are going to fund education in the State. And while I will make comments later about the bill rather than the amendments, the bill itself not doing very much to move us in the right direction in terms of addressing adequate funding for education in the State or greater equity, I do think that this is not the time for us to vote on this particular complex proposal, but I do certainly commend the maker of the amendment for bringing forward a very serious proposal on how we might transform funding of education in the State.

Thank you, Madam President.

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

Senator WOZNIAK. Madam President, I rise to support the amendment. All night long, earlier when I spoke I said, why do we have to make everything partisan? One of the issues has been the inequity in funding throughout the 501 school districts. This is taking care of that situation. It is coming to that nebulous number of 50 percent for all the school districts being paid for by the Commonwealth of Pennsylvania. And yes, it is going to be a

very difficult and challenging vote, but the other side of that coin is that you are going to have property tax reduction and all the school districts are going to be treated equally. And I think that is the most important thing that we can do here tonight, because I have watched us over the 23 years I have been here use smoke and mirrors and 2 percent held harmless, while everything got completely out of whack with how these school districts are funded by the State. Some of them get money, outrageously large sums of money, while others are barely picking the bones off the dead bird laying in the street. This is an opportunity to make the equity issue alive, and I ask for an affirmative vote on this amendment.

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

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

YEA-5

Mowery	Stout	White, Mary Jo	Wozniak
Rhoades			

NAY-44

Armstrong	Greenleaf	Mellow	Stack
Boscola	Helfrick	Musto	Tartaglione
Brightbill	Hughes	O'Pake	Thompson
Conti	Jubelirer	Orie	Tomlinson
Corman	Kasunic	Piccola	Wagner
Costa	Kitchen	Pileggi	Waugh
Dent	Kukovich	Punt	Wenger
Earll	LaValle	Rafferty	White, Donald
Erickson	Lemmond	Robbins	Williams, Anthony H.
Ferlo	Logan	Scarnati	Williams, Constance
Fumo	Madigan	Schwartz	Wonderling

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 third consideration, as amended?

ERICKSON AMENDMENT A2321

Senator ERICKSON offered the following amendment No. A2321:

Amend Sec. 1 (Sec. 611-A), page 8, line 3, by inserting after "district": or county

Amend Sec. 1, page 8, by inserting between lines 6 and 7: Section 611.1-A. Second Class A county optional imposition of tax.

If a county which is a county of the second class A which is governed by a home rule charter elects to impose the tax authorized under section 611-A:

(1) The county shall make the election 30 days prior to the school district's decision deadline. If the county does not elect to impose the tax each school district shall still have the option of imposing the tax in accordance with this act.

(2) Section 613-A(e)(4) does not apply.

(3) No school district which is wholly within that county shall impose the tax, unless the county ballot question fails. If the county

ballot question fails, the school district may impose the tax in accordance with this act at a later date.

(4) If the tax is imposed, the county may retain an amount of money to cover the costs of collecting, distributing and administering the tax but that amount shall not exceed 1% of the total amount collected.

(5) In a school district that crosses county lines, the residents of that school district would have two ballot questions. If both ballot questions pass, the tax is paid first to the school district and used as a credit against the county tax. The county will reduce the amount payable to the school district to the same proportion of actual money paid to the county from residents of that school district in that county after reducing the credit amount paid to the school district.

(6) If the county ballot question is passed, the county would give each school district an amount equal to the homestead/farmstead amount up to one-half of the county median school property tax under 53 Pa.C.S. Ch. 85 Subch. F (relating to homestead property exclusion), which the school district would then credit against the school taxes of the residential properties that are in both that school district and county. The credit shall not exceed 100% of the property taxes of any residential property. Any amount in excess of the 100% limitation must be used by the school district to further reduce millage.

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

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

Senator ERICKSON. Madam President, the amendment I am offering will seek to strike a compromise by allowing counties to consider tax shifting proposals contained in Senate Bill No. 100, thus the county would stand in the position of the school district in the current Senate Bill No. 100. I ask for your consideration.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, would the gentleman stand for interrogation?

The PRESIDENT. Senator Erickson, will you agree to stand for interrogation? He indicates he will.

Senator BRIGHTBILL. Madam President, would the gentleman indicate whether this is all counties?

Senator ERICKSON. Madam President, this is not all counties. This is Home Rule counties of Second Class A.

Senator BRIGHTBILL. Madam President, thank you.

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

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

YEA-31

Armstrong	Helfrick	Pileggi	Tomlinson
Boscola	Jubelirer	Punt	Waugh
Brightbill	Kukovich	Rafferty	Wenger
Conti	Lemmond	Rhoades	White, Donald
Corman	Madigan	Robbins	White, Mary Jo
Dent	Mowery	Scarnati	Williams, Anthony H.
Erickson	Orie	Stout	Wonderling
Greenleaf	Piccola	Thompson	

NAY-18

Costa	Kasunic	Musto	Wagner
Earll	Kitchen	O'Pake	Williams, Constance
Ferlo	LaValle	Schwartz	Wozniak
Fumo	Logan	Stack	
Hughes	Mellow	Tartaglione	

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

The PRESIDENT. The bill will go over as amended.

UNFINISHED BUSINESS

BILLS REPORTED FROM COMMITTEES

Senator MOWERY, from the Committee on Public Health and Welfare, reported the following bill:

HB 100 (Pr. No. 2186) (Amended)

An Act providing for the availability of and access to a comprehensive trauma care system; and imposing powers and duties upon the Department of Public Welfare.

Senator THOMPSON, from the Committee on Appropriations, reported the following bill:

SB 10 (Pr. No. 1026) (Amended) (Rereported)

An Act amending Titles 12 (Commerce and Trade) and 72 (Taxation and Fiscal Affairs) of the Pennsylvania Consolidated Statutes, codifying portions of the Economic Development Financing Law and further providing for contract requirements and for Commonwealth obligations; codifying portions of the Job Enhancement Act and further providing for contract requirements, for guidelines, for administration and for application and review requirements; codifying portions of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act and further providing for keystone opportunity expansion subzones and for keystone opportunity improvement zones; providing for the Project Review Committee, for Keystone Innovation Zones, for the Economic Enhancement Program, for the Economic Enhancement Financing Program, for the Core Industries Infrastructure Capitalization Program, for the Water and Wastewater Infrastructure Capitalization Program, for the First Industries Program, for the Secondary Growth Stage Financing Program, for primary growth stage investment providing for the Economic Enhancement Fund; codifying the Capital Facilities Debt Enabling Act; further providing for definitions, for procedures for capital budget and debt authorizing legislation, for bonds, for appropriations for and limitations on redevelopment assistance and site development capital projects, and for funding and administration of redevelopment assistance capital projects; providing for funding and administration of site development capital projects and for the Capital Project Oversight and Review Committee; continuing debt authorization; making repeals; requiring a referendum; and making appropriations.

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 Carey Harris by Senator Costa.

Congratulations of the Senate were extended to Leo and Phyllis Rheiner and to the citizens of Hanover Township by Senator Dent.

Congratulations of the Senate were extended to Grace Miller by Senator Helfrick.

Congratulations of the Senate were extended to L & L Dance Productions by Senator Hughes.

Congratulations of the Senate were extended to Andrew M. Caruso, Jr., Ann Popa and to Elizabeth L. Wallace by Senator Kasunic.

Congratulations of the Senate were extended to David L. Mandarino, Jason Robert Gardner and to Kennametal, Inc., of Irwin, by Senator Kukovich.

Congratulations of the Senate were extended to Mr. and Mrs. Joseph T. Shalata, Jr., Mr. and Mrs. James Smith and to Mr. and Mrs. Andrew Hustey by Senator Lemmond.

Congratulations of the Senate were extended to Michael J. Halesky by Senator Madigan.

Congratulations of the Senate were extended to Vincent James Aita by Senator Mellow.

Congratulations of the Senate were extended to William R. Ewer, Jr., Harry P. Bickel and to Dan R. Yingling by Senator Mowery.

Congratulations of the Senate were extended to the E. L. Meyers High School Boys' Track and Field 400-Meter Relay Team of Wilkes-Barre by Senator Musto.

Congratulations of the Senate were extended to Woodlands Foundation Golf Course for the Disabled of Wexford by Senator Orie.

Congratulations of the Senate were extended to the Carmichaels Area Junior/Senior High School Mikes Baseball Team by Senator Stout.

Congratulations of the Senate were extended to the Catholic Daughters of the Americas and Court St. Mark No. 1097 by Senator Tomlinson.

Congratulations of the Senate were extended to Mr. and Mrs. Kenneth Jewart, Mr. and Mrs. Delbert Williams, Mr. and Mrs. Daryl Walker and to Cory Daniel Murphy by Senator D. White.

Congratulations of the Senate were extended to Michele Pawk by Senator M.J. White.

Congratulations of the Senate were extended to Thomas A. Herdman by Senator Wozniak.

BILLS ON FIRST CONSIDERATION

Senator RAFFERTY. 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 by voice vote.

The bills were as follows:

SB 427, SB 716, HB 51, HB 100, HB 349 and HB 500.

And said bills having been considered for the first time,
Ordered, To be printed on the Calendar for second consideration.

BILL SIGNED

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the presence of the Senate signed the following bill:

SB 55.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, JUNE 25, 2003

10:00 A.M.	LABOR AND INDUSTRY (to consider Senate Bill No. 818)	Rules Cmte. Conf. Rm.
Off the Floor	APPROPRIATIONS (to consider House Bills No. 44 and 200)	Rules Cmte. Conf. Rm.
Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider certain executive nominations)	Rules Cmte. Conf. Rm.

ADJOURNMENT

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I move that the Senate do now adjourn until Wednesday, June 25, 2003, at 11 a.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate adjourned at 10 p.m., Eastern Daylight Saving Time.