

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

MONDAY, NOVEMBER 23, 2015

SESSION OF 2015 199TH OF THE GENERAL ASSEMBLY

No. 67

SENATE

MONDAY, November 23, 2015

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDING OFFICER (Senator John C. Rafferty, Jr.) in the Chair.

PRAYER

The Chaplain, Reverend JOHN ZIMMERMAN, of Billy Graham Evangelistic Association, Friedens, offered the following prayer:

Let us pray.

O God, we pause on this busy day to still our hearts and to humble ourselves before Your majestic greatness. We express thanks for Your residence among us that imparts love, grace, and mercy. You birthed this Commonwealth as a Holy Experiment for the nations and You sowed the seeds for which our nation was built. You established our Commonwealth as a champion for liberty and peace. You have planted bountiful resources for a ventured stewardship, and You command the destiny for which we navigate the waves ahead. Today we gather to contribute our wisdom, convey our knowledge, and commit our passion for the agenda set before us. May we do the thing that is truly wise and just.

Remindful of our greatest resource, the people of our Commonwealth, we are grateful for all who serve, not only for those in the military, but also for those who serve in the community centers, hospitals, and social service agencies of our great Commonwealth; for those who serve in food pantries, soup kitchens, shelters, cafeteria lines, classrooms, hallways; for those who serve as mothers, fathers, and grandparents; in fire stations, police cruisers, ambulances, youth groups, baseball dugouts, organizing Girl Scout cookie sales; for those who serve as excavators and work farm tractors and behind cash registers. We are a rich and diverse people.

We also pray for the lost, the broken, the poor, and the addicted that commingle with us; for those whose imaginations cannot see beyond the moment, whose burdens are heavy, and their yoke is unbearable. Grant that we may strive to offer hope to the hopeless and reconciliation to the disengaged. May the outcome of today's Holy Experiment yield results in keeping with Your divine expectations as we submit our will to Yours. In God we trust. Amen.

The PRESIDING OFFICER. The Chair thanks Reverend Zimmerman, who is the guest today of Senator Stefano.

PLEDGE OF ALLEGIANCE

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

COMMUNICATIONS FROM THE GOVERNOR

**RECALL COMMUNICATIONS
REFERRED TO COMMITTEE**

The PRESIDING OFFICER 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 STATE BOARD
OF BARBER EXAMINERS**

November 18, 2015

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 October 29, 2015, of Leah J. Sheppard, 115 North Street, Apt 107, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Barber Examiners, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice John Christopher, Hummelstown, whose term expired.

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

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF DENTISTRY

November 18, 2015

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 October 29, 2015, of Leah J. Sheppard, 115 North Street, Apt 107, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Dentistry, to serve for a term of six years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Douglas Marinak, Mechanicsburg, whose term expired.

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

TOM WOLF
Governor

MEMBER OF THE STATE REAL ESTATE COMMISSION

November 18, 2015

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 October 29, 2015, of Leah J. Sheppard, 115 North Street, Apt 107, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Real Estate Commission, to serve until June 11, 2017, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice W. Greg Rothman, Mechanicsburg, resigned.

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

TOM WOLF
Governor

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDING OFFICER 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 STATE BOARD
OF ACCOUNTANCY

November 18, 2015

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, Barry Berkowitz, 109 Steele Way, Huntingdon Valley 19006, Montgomery County, Twelfth Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF ACCOUNTANCY

November 18, 2015

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, Keri Ellis, 109 Carriage Lane, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF ACCOUNTANCY

November 18, 2015

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, Erik Scully, 10550 Grubbs Road, Wexford 15090, Allegheny County, Thirty-eighth Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF ACCOUNTANCY

November 18, 2015

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, Alfred Whitcomb, One Donald Street, Mechanicsburg 17050, Cumberland County, Thirty-first Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE ARCHITECTS LICENSURE BOARD

November 18, 2015

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Douglas Carney, 474 Granite Terrace, Springfield 19064, Delaware County, Twenty-sixth Senatorial District, for appointment as a member of the Architects Licensure Board, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Howard Graves, Pittsburgh, whose term expired.

TOM WOLF
Governor

MEMBER OF THE ARCHITECTS LICENSURE BOARD

November 18, 2015

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 Hill, 12 Spring Wood Drive, Allentown 18104, Lehigh County, Sixteenth Senatorial District, for reappointment as a member of the Architects Licensure Board, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF BARBER EXAMINERS

November 18, 2015

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, David Chisolm, 105 East Walnut Park Drive, Philadelphia 19120, Philadelphia County, Third Senatorial District, for appointment as a member of the State Board of Barber Examiners, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Payne, North Huntingdon, whose term expired.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF BARBER EXAMINERS

November 18, 2015

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 Christopher, 1690 Wood Road, Hummelstown 17036, Dauphin County, Fifteenth Senatorial District, for reappointment as a member of the State Board of Barber Examiners, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF CHIROPRACTIC

November 18, 2015

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, William D. Aukerman, 136 Lakewood Road, Greensburg 15601, Westmoreland County, Thirty-ninth Senatorial District, for appointment as a member of the State Board of Chiropractic, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Jonathan McCullough, Holland, whose term expired.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF CHIROPRACTIC

November 18, 2015

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, J. Gerard Halloran, 3565 Primrose Road, Philadelphia 19134, Philadelphia County, Fifth Senatorial Dis-

trict, for appointment as a member of the State Board of Chiropractic, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Joseph Grice, Mars, whose term expired.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF CHIROPRACTIC

November 18, 2015

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 S. Swank, 1807 Barrington Drive, York 17408, York County, Twenty-eighth Senatorial District, for appointment as a member of the State Board of Chiropractic, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Kathleen McConnell, Pittsburgh, whose term expired.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF COSMETOLOGY

November 18, 2015

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, Elisa Gonzalez, 7900 Lindbergh Blvd., Apartment 4808, Philadelphia 19153, Philadelphia County, First Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve until [sic] for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Angelina Morgan, Exeter, whose term expired.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF COSMETOLOGY

November 18, 2015

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, Stephen A. Wallin, 1700 Cambridge Circle, Southampton 19866, Bucks County, Twelfth Senatorial District, for reappointment as a member of the State Board of Cosmetology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF DENTISTRY

November 18, 2015

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, Shawn Casey, D.M.D., 168 South Highland Drive, Pittston 18640, Luzerne County, Fourteenth Senatorial District, for appointment as a member of the State Board of Dentistry, to serve for a term of six years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Douglas Marinak, D.D.S., Mechanicsburg, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF DENTISTRY

November 18, 2015

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, Barbara Fowler (Public Member), 245 Conway Street, Carlisle 17013, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the State Board of Dentistry, to serve until October 6, 2020, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Dallas Stoy, Lewisberry, resigned.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF DENTISTRY

November 18, 2015

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, Andrew S. Matta, D.M.D., 3305 South Parkside Drive, New Castle 16105, Lawrence County, Forty-seventh Senatorial District, for appointment as a member of the State Board of Dentistry, to serve for a term of six years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Edmund Effort, Pittsburgh, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF LANDSCAPE ARCHITECTS

November 18, 2015

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Edward J. Rak (Public Member), 3222 Sundale Drive, Glenshaw 15116, Allegheny County, Thirty-eighth Senatorial District, for reappointment as a member of the State Board of Landscape Architects, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF MASSAGE THERAPY

November 18, 2015

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, Mary Meyers, 408 Hill Circle, Reading 19607, Berks County, Eleventh Senatorial District, for appointment as a member of the State Board of Massage Therapy, to serve until October 9, 2019, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Thomas Kramer, Lancaster, resigned.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF MEDICINE

November 18, 2015

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, Bruce Goodman, M.D., 1635 Mitchell Road, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Medicine, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Andrew Behnke, M.D., Carlisle, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF MEDICINE

November 18, 2015

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 M. Mitchell, 3509 Tyson Road, Newtown Square 19073, Delaware County, Twenty-sixth Senatorial District, for appointment as a member of the State Board of Medicine, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice George Roberts, Edinboro, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF MEDICINE

November 18, 2015

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, Evon Sutton (Public Member), 5527 Chancellor Street, Philadelphia 19139, Philadelphia County, Eighth

Senatorial District, for appointment as a member of the State Board of Medicine, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Solomon Isaacson, Philadelphia, whose term expired.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
OF NURSING HOME ADMINISTRATORS**

November 18, 2015

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, Diane Baldi, R.N., 821 Columbia Street, Scranton 18509, Lackawanna County, Twenty-second Senatorial District, for reappointment as a member of the State Board of Examiners of Nursing Home Administrators, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
OF NURSING HOME ADMINISTRATORS**

November 18, 2015

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, Kimberly D. Cobaugh, 125 Beech Lane, Indiana 15701, Indiana County, Forty-first Senatorial District, for reappointment as a member of the State Board of Examiners of Nursing Home Administrators, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
OF NURSING HOME ADMINISTRATORS**

November 18, 2015

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, Darlene Techentin (Public Member), 110 Greenbriar Drive North, Bath 18014, Northampton County, Fortieth Senatorial District, for appointment as a member of the State Board of Examiners of Nursing Home Administrators, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice William McIlwaine, Millersville, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF NURSING

November 18, 2015

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, Kessey Kieselhorst, 4 Heather Hill Drive, Danville 17821, Montour County, Twenty-seventh Senatorial District, for appointment as a member of the State Board of Nursing, to serve for a term of six years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Kathleen Dwyer, Harrisburg, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF NURSING

November 18, 2015

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, Sherri Luchs, R.N., 6154 Spring Knoll Drive, Harrisburg 17111, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Nursing, to serve for a term of six years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Joanne Sorensen, R.N., Russell, whose term expired.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD
OF OPTOMETRY**

November 18, 2015

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, Anthony Diecidue, O.D., 103 McMichael Drive, Stroudsburg 18360, Monroe County, Fortieth Senatorial District, for appointment as a member of the State Board of Optometry, to serve until March 20, 2017, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Lawrence Sylvester, O.D., Chambersburg, resigned.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD
OF OSTEOPATHIC MEDICINE**

November 18, 2015

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 B. Bulger, D.O., 219 Abbey Road, Danville 17821, Montour County, Twenty-seventh Senatorial District, for appointment as a member of the State Board of Osteopathic Medicine, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Rohit Agrawal, D.O., Pittsburgh, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF OSTEOPATHIC MEDICINE

November 18, 2015

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, Randy G Litman, D.O., 864 Garfield Avenue, Lansdale 19446, Montgomery County, Twelfth Senatorial District, for appointment as a member of the State Board of Osteopathic Medicine, to serve until October 15, 2016, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Maria DeMario, D.O., Media, resigned.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF OSTEOPATHIC MEDICINE

November 18, 2015

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, Burton Mark, D.O., 203 West Chestnut Street, West Chester 19380, Chester County, Nineteenth Senatorial District, for reappointment as a member of the State Board of Osteopathic Medicine, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF OSTEOPATHIC MEDICINE

November 18, 2015

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, David Palmer, C.C.P., 1084 Tomaino Drive, Pittsburgh 15220, Allegheny County, Forty-second Senatorial District, for appointment as a member of the State Board of Osteopathic Medicine, to serve until March 11, 2018, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Ian Rosenberg, Pittsburgh, deceased.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF PHYSICAL THERAPY

November 18, 2015

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, Marque't Green, 3901 North Smedley Street, Philadelphia 19140, Philadelphia County, Third Senatorial Dis-

trict, for appointment as a member of the State Board of Physical Therapy, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Noone, Exton, whose term expired.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF PHYSICAL THERAPY

November 18, 2015

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, David M. Kozich, D.P.T., 42 Sassafras Court, Mountain Top 18707, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Physical Therapy, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF Governor

MEMBER OF THE STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

November 18, 2015

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, Eric M. Lehmayr, 8 Elmwood Blvd., York 17403, York County, Twenty-eighth Senatorial District, for reappointment as a member of the State Board of Certified Real Estate Appraisers, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF Governor

MEMBER OF THE STATE REAL ESTATE COMMISSION

November 18, 2015

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, Armand Ferrara, Jr., 118 Howard Street, Charleroi 15022, Washington County, Forty-sixth Senatorial District, for appointment as a member of the State Real Estate Commission, to serve until June 11, 2017, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice W. Greg Rothman, Mechanicsburg, resigned.

TOM WOLF Governor

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

November 18, 2015

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, Renee J. Cardone, 40 College Avenue, Colledgeville 19426, Montgomery County, Twenty-fourth Senatorial District, for reappointment as a member of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

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

November 18, 2015

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, Marilyn Painter (Public Member), 30 Love Place, Pittsburgh 15218, Allegheny County, Forty-third Senatorial District, for appointment as a member of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Theresa Craley, Dallastown, whose term expired.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF
EXAMINERS IN SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY**

November 18, 2015

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, Ann Roman, 153 Butternut Road, Shaverton *[sic]* 18708, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Examiners in Speech-Language Pathology and Audiology, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF
EXAMINERS IN SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY**

November 18, 2015

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, Louis Sieminski, Ph.D., 730 Hampton Road, Shaverton *[sic]* 18708, Luzerne County, Twentieth Senatorial District, for appointment as a member of the State Board of Examiners in Speech-Language Pathology and Audiology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice James Shafer, Au.D., York, whose term expired.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF VEHICLE
MANUFACTURERS, DEALERS AND SALESPERSONS**

November 18, 2015

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, Kirk Davis, 1709 Crestline Street, Pittsburgh 15221, Allegheny County, Forty-third Senatorial District, for appointment as a member of the State Board of Vehicle Manufacturers, Dealers and Salespersons, to serve until October 1, 2016, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Hickey, Mechanicsburg, resigned.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD OF VEHICLE
MANUFACTURERS, DEALERS AND SALESPERSONS**

November 18, 2015

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, Lee B. Heffner 75 Sunrise Road, Reinholds 17569, Lancaster County, Thirty-sixth Senatorial District, for reappointment *[sic]* as a member of the State Board of Vehicle Manufacturers, Dealers and Salespersons, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Glenn Martin, Harrisburg, resigned.

TOM WOLF
Governor

**MEMBER OF THE STATE BOARD
OF VETERINARY MEDICINE**

November 18, 2015

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 Garg, V.M.D., 145 Shelbourne Lane, Phoenixville 19460, Chester County, Nineteenth Senatorial District, for appointment as a member of the State Board of Veterinary Medicine, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Steven Radbill, V.M.D., Huntingdon Valley, whose term expired.

TOM WOLF
Governor

**CORRECTIONS TO NOMINATIONS
REFERRED TO COMMITTEE**

The PRESIDING OFFICER 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 STATE BOARD
OF PHYSICAL THERAPY

November 19, 2015

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

Please note that the letter dated November 18, 2015, for the nomination of Marque't Green, 3901 North Smedley Street, Philadelphia 19140, Philadelphia County, Third Senatorial District, for appointment as a member of the State Board of Physical Therapy, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Noone, Exton, whose term expired, should be corrected to read:

Marque't Green, 3901 North Smedley Street, Philadelphia 19140, Philadelphia County, Third Senatorial District, for appointment as a member of the State Board of Physical Therapy, to serve until October 2, 2019, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Noone, Exton, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF PHYSICAL THERAPY

November 19, 2015

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

Please note that the letter dated November 18, 2015, for the nomination of David M. Kozich, D.P.T., 42 Sassafras Court, Mountain Top 18707, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Physical Therapy, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, should be corrected to read:

David M. Kozich, D.P.T., 42 Sassafras Court, Mountain Top 18707, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Physical Therapy, to serve until October 2, 2019, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF VEHICLE
MANUFACTURERS, DEALERS AND SALESPERSONS

November 19, 2015

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

Please note that the letter dated November 18, 2015, for the nomination of Lee B. Heffner 75 Sunrise Road, Reinholds 17569, Lancaster County, Thirty-sixth Senatorial District, for reappointment *[sic]* as a member of the State Board of Vehicle Manufacturers, Dealers and Salespersons, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Glenn Martin, Harrisburg, resigned, should be corrected to read:

Lee B. Heffner, 75 Sunrise Road, Reinholds 17569, Lancaster County, Thirty-sixth Senatorial District, for appointment as a member of the State Board of Vehicle Manufacturers, Dealers and Salespersons, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Glenn Martin, Harrisburg, resigned.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF EXAMINERS IN
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

November 20, 2015

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

Please note that the letter dated November 18, 2015, for the nomination of Ann Roman, 153 Butternut Road, Shaverton *[sic]* 18708, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Examiners in Speech-Language Pathology and Audiology, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, should be corrected to read:

Ann Roman, 153 Butternut Road, Shavertown 18708, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Examiners in Speech-Language Pathology and Audiology, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD OF EXAMINERS IN
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

November 20, 2015

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

Please note that the letter dated November 18, 2015, for the nomination of Louis Sieminski, Ph.D., 730 Hampton Road, Shaverton *[sic]* 18708, Luzerne County, Twentieth Senatorial District, for appointment as a member of the State Board of Examiners in Speech-Language Pathology and Audiology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice James Shafer, Au.D., York, whose term expired, should be corrected to read:

Louis Sieminski, Ph.D., 730 Hampton Road, Shavertown 18708, Luzerne County, Twentieth Senatorial District, for appointment as a member of the State Board of Examiners in Speech-Language Pathology and Audiology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice James Shafer, Au.D., York, whose term expired.

TOM WOLF
Governor

CORRECTIONS TO CORRECTIONS
TO NOMINATIONS
REFERRED TO COMMITTEE

The PRESIDING OFFICER 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 STATE BOARD
OF PHYSICAL THERAPY

November 20, 2015

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

Please note that the letter dated November 18, 2015, then corrected November 19, 2015, for the nomination of Marque't Green, 3901 North Smedley Street, Philadelphia 19140, Philadelphia County, Third Senatorial District, for appointment as a member of the State Board of Physical Therapy, to serve until October 2, 2019, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Noone, Exton, whose term expired, should be corrected to read:

Marque't Green, 3901 North Smedley Street, Philadelphia 19140, Philadelphia County, Third Senatorial District, for appointment as a member of the State Board of Physical Therapy, to serve until October 2, 2018, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice John Noone, Exton, whose term expired.

TOM WOLF
Governor

MEMBER OF THE STATE BOARD
OF PHYSICAL THERAPY

November 20, 2015

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

Please note that the letter dated November 18, 2015, then corrected November 19, 2015, for the nomination of David M. Kozich, D.P.T., 42 Sassafras Court, Mountain Top 18707, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Physical Therapy, to serve until October 2, 2019, and until his successor is appointed and qualified, but not longer than six months beyond that period, should be corrected to read:

David M. Kozich, D.P.T., 42 Sassafras Court, Mountain Top 18707, Luzerne County, Twentieth Senatorial District, for reappointment as a member of the State Board of Physical Therapy, to serve until October 2, 2018, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF
Governor

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 490**, with the information the House has passed the same without amendments.

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

November 20, 2015

- HB 322** and **1682** -- Committee on Judiciary.
- HB 484** -- Committee on Public Health and Welfare.
- HB 902** -- Committee on Local Government.
- HB 1162** -- Committee on Finance.
- HB 1574** -- Committee on Education.
- HB 1579** -- Committee on Transportation.
- HB 1690** -- Committee on Law and Justice.

BILLS INTRODUCED AND REFERRED

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

November 20, 2015

Senators BREWSTER, FONTANA, VULAKOVICH, BARTOLOTTA and HUGHES presented to the Chair **SB 1070**, entitled:

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, in hunting and furtaking, further providing for prohibition on Sunday hunting and providing for regulation of Sunday hunting by the Pennsylvania Game Commission.

Which was committed to the Committee on GAME AND FISHERIES, November 20, 2015.

Senators GREENLEAF, TARTAGLIONE, RAFFERTY, PILEGGI and HUGHES presented to the Chair **SB 1072**, entitled:

An Act amending the act of March 28, 2000 (P.L.23, No.7), known as the Fair Credit Extension Uniformity Act, further providing for unfair or deceptive acts or practices.

Which was committed to the Committee on CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, November 20, 2015.

Senators GREENLEAF, TARTAGLIONE, FARNESE, VULAKOVICH, RAFFERTY, FONTANA and HUGHES presented to the Chair **SB 1074**, entitled:

An Act amending the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, further providing for definitions and for unlawful acts or practices and exclusions.

Which was committed to the Committee on CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, November 20, 2015.

November 23, 2015

Senators BAKER, VANCE, PILEGGI, SABATINA, FONTANA, SCHWANK, FOLMER, FARNESE, MENSCH, RAFFERTY, BARTOLOTTA and SCARNATI presented to the Chair **SB 1056**, entitled:

An Act amending Titles 23 (Domestic Relations) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, enacting the Uniform Deployed Parents Custody and Visitation Act; making related repeals; and making editorial changes.

Which was committed to the Committee on JUDICIARY, November 23, 2015.

Senators TEPLITZ, BREWSTER, FONTANA, COSTA, HUGHES and BROWNE presented to the Chair **SB 1075**, entitled:

An Act establishing the Charter and Cyber Charter School Funding Commission; and providing for its powers and duties.

Which was committed to the Committee on EDUCATION, November 23, 2015.

RESOLUTIONS INTRODUCED AND REFERRED

The PRESIDING OFFICER laid before the Senate the following Senate Resolutions numbered, entitled, and referred as follows, which were read by the Clerk:

November 20, 2015

Senators RAFFERTY, YAW, GREENLEAF, BARTOLOTTA, MENSCH, SABATINA, YUDICHAK, WHITE, FOLMER, BROWNE, VULAKOVICH and HUGHES presented to the Chair **SR 247**, entitled:

A Resolution urging the United States Department of Transportation to work with tank car manufacturers and owners, crude oil shippers and the rail industry in adopting a higher pool fire survivability standard and assisting with additional Federal funds to sustain the training of emergency first responders to ensure communities across the Commonwealth of Pennsylvania and the rest of the United States benefit from the safe transportation of Crude by Rail shipments.

Which was committed to the Committee on TRANSPORTATION, November 20, 2015.

Senators RAFFERTY, SCARNATI, SCAVELLO, AUMENT, FOLMER, ARGALL, GORDNER, SMUCKER, EICHELBERGER, BARTOLOTTA, MENSCH, McILHINNEY, YAW, WARD, BROOKS, TOMLINSON, DINNIMAN, STEFANO, VULAKOVICH, HUTCHINSON, VOGEL, GREENLEAF, WHITE, CORMAN, BAKER, ALLOWAY and BROWNE presented to the Chair **SR 248**, entitled:

A Resolution urging the Governor of the Commonwealth of Pennsylvania, the President of the United States and the Secretary of the United States Department of Homeland Security to discontinue the resettlement of Syrian refugees in this Commonwealth until such time as systems are in place to conduct effective and thorough security and background checks on Syrian refugees and to send a report detailing the increased measures to the states that are under consideration to receive Syrian refugees.

Which was committed to the Committee on STATE GOVERNMENT, November 20, 2015.

GENERAL COMMUNICATIONS**eHEALTH PARTNERSHIP AUTHORITY
ANNUAL REPORT AND FINANCE STATEMENT**

The PRESIDING OFFICER laid before the Senate the following communications, which were read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania eHealth Partnership Authority
402-A Finance Building, 613 North Street
Harrisburg, PA 17120

In compliance with Section 303(a)15 of the Pennsylvania eHealth Information Technology Act (Act 121 of 2012), enclosed is the 2015 Annual Report of the Pennsylvania eHealth Partnership Authority.

INDEPENDENT AUDITORS' REPORT
Zelenkofske Axelrod LLC
830 Sir Thomas Court, Suite 100
Harrisburg, PA 17109

October 1, 2015

Board of Directors
Pennsylvania eHealth Partnership Authority
Harrisburg, Pennsylvania

We have audited the accompanying financial statements of the business-type activities of the PENNSYLVANIA eHEALTH PARTNERSHIP AUTHORITY ("The Authority"), a component unit of the Commonwealth of Pennsylvania, as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Authority as of June 30, 2015, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Adoption of Governmental Accounting Standards Board Statements

As discussed in Note 1 to the financial statements, during the year ending June 30, 2015, The Authority adopted the provisions of Governmental Accounting Standards Board's Statement No. 68, "Accounting and Financial Reporting for Pensions - an amendment of GASB Statement No. 27", Statement No. 69, "Government Combinations and Disposals of Government Operations", and Statement No. 71, "Pension Transition for Contributions Made Subsequent to the Measurement Date - an Amendment of GASB Statement No. 68". Our opinion is not modified with respect to these matters.

Other Matters**Required Supplementary Information**

Accounting principles generally accepted in the United States of America require that the schedule of Authority's proportionate share of the net pension liability and the schedule of Authority's contributions on pages 19-20 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquires of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with

sufficient evidence to express an opinion or provide any assurance.

Omission of Management's Discussion and Analysis

Management has omitted the management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

ZELENKOFKSKE AXELROD
LLC

The PRESIDING OFFICER. This report will be filed in the Library.

**HAZARDOUS SITES CLEANUP FUND
ANNUAL REPORT**

The PRESIDING OFFICER laid before the Senate the following communication, which was read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

October 6, 2015

Ms. Megan Martin
Secretary-Parliamentarian of the Senate
Senate Post Office Box 203053
Harrisburg, PA 17120-3053

Dear Ms. Martin:

The Department of Environmental Protection (DEP) is pleased to present to you its Hazardous Sites Cleanup Fund Annual Report. This report summarizes DEP's accomplishments under the Hazardous Sites Cleanup Act, which provides DEP with the ability to immediately respond to spills of hazardous substances thereby eliminating threats to public health and the environment.

As provided in the Hazardous Sites Cleanup Fund Funding Act, DEP is distributing the report electronically and providing a link for accessing the report online. The report can be found on DEP's web site at www.dep.state.pa.us, keyword "HSCA." From that page, click on "Remediation Services" to locate the report.

Thank you for your interest in this report and for continuing to partner with DEP to promote a clean environment and safe community for all Pennsylvanians.

Respectfully,

JOHN QUIGLEY
Secretary

The PRESIDING OFFICER. This report will be filed in the Library.

LEGISLATIVE LEAVES

The PRESIDING OFFICER. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request temporary Capitol leaves for Senator Pileggi and Senator Ward.

The PRESIDING OFFICER. Senator Corman requests temporary Capitol leaves for Senator Pileggi and Senator Ward. Without objection, the leaves will be granted.

LEAVE OF ABSENCE

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

**SPECIAL ORDER OF BUSINESS
SENATE RESOLUTION ADOPTED**

Senator WOZNIAK, by unanimous consent, offered **Senate Resolution No. 249**, entitled:

A Resolution extending sympathies and heartfelt condolences to the families of those killed and injured in the terrorist attack in Paris, France.

On the question,
Will the Senate adopt the resolution?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Mr. President, I rise to speak about the tragedy that occurred in France on November 13. On that day, three teams of terrorists entered six locations in Paris and killed at least 129 civilians and wounded another 352. The reason they entered the concert halls, the restaurants, and attempted to enter the soccer stadium is that they wanted to create terror and havoc, kill people, inflict pain, and instill fear. The heartbreaking death and destruction that France felt has reverberated around the world. It has led us to question and look at people differently. It has led us to look at our own values and evaluate our own strengths. While there are controversies about the bombings, shootings, carnage, and mayhem that targeted France on that day, there is no question that we need to reach out now with a hand to help those victims cope with their losses and aid those who mourn. We must also reach out and build a coalition of nations to unite and crush those who have committed this barbaric act. We must demonstrate that our resolve for peace is far stronger than a warped ideology of fear. Terrorists always succeed when fear overtakes reason. America stands behind those who have experienced terrorist attacks. America stands behind justice and the search for those who want to harm peace-loving people.

What happened on November 13 was despicable. It was aimed at unarmed, unaware men, women, and children. It was hateful, cowardly, and contemptible. Our resolution today expresses full support for France and our sympathies and our heartfelt condolences for the victims and families who have to deal with the aftermath of these attacks.

I would also like to reach out to the people from the Russian aircraft that was shot down and also to the people of Mali. Together we can defeat terrorism and turn aside fear. I ask for a moment of silence and a positive vote on this resolution.

The PRESIDING OFFICER. Will the Senate please stand for a moment of silence for the victims of terrorist acts.

(Whereupon, the Senate en bloc stood in a moment of silence in solemn respect for the victims of terrorist acts.)

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

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

YEA-48

Alloway	Dinniman	McGarrigle	Tomlinson
Argall	Eichelberger	McIlhinney	Vance
Aument	Farnese	Mensch	Vogel
Baker	Folmer	Pileggi	Vulakovich
Bartolotta	Fontana	Rafferty	Wagner
Blake	Gordner	Sabatina	Ward
Boscola	Greenleaf	Scavello	White
Brewster	Haywood	Schwank	Wiley
Brooks	Hughes	Smucker	Williams
Browne	Hutchinson	Stefano	Wozniak
Corman	Kitchen	Tartaglione	Yaw
Costa	Leach	Teplitz	Yudichak

NAY-0

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

LEGISLATIVE LEAVE CANCELLED

The PRESIDING OFFICER. Senator Ward has returned, and her temporary Capitol leave is cancelled.

GUESTS OF SENATOR PATRICK J. STEFANO PRESENTED TO THE SENATE

The PRESIDING OFFICER. The Chair recognizes the gentleman from Beaver, Senator Stefano.

Senator STEFANO. Mr. President, I would like to extend my thanks to my constituent for serving as guest Chaplain today. Reverend John Zimmerman offered the opening prayer for Session, and he is accompanied by his wife, Christine. Reverend Zimmerman is a lifelong resident and served the United Methodist churches throughout western Pennsylvania. Currently, he is based in Friedens, Somerset County. He is working with the Billy Graham Evangelistic Association as the Pennsylvania coordinator of Decision America Tour with Franklin Graham. Franklin Graham is traveling to our own Capitol steps later in 2016 to hold a prayer rally urging Christians to vote, to live out their faith in every part of their lives, and to pray for our State and nation, which we really need. Reverend Zimmerman and his wife also serve as community outreach consultants with local churches across Pennsylvania. Their mentor-style ministry equips and encourages congregations to engage their community with the transforming love of Jesus Christ. Their heart is especially passionate to walk with the poor, broken, and addicted to find freedom and wholeness through relational ministries. Please join me in giving them a warm Senate welcome.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I am pleased to rise with my colleague, Senator Stefano, in welcoming Reverend John Zimmerman for his service here today and providing leadership in this area. Reverend Zimmerman is also involved as a field representative for the Billy Graham ministries in prepara-

tion for a 50-State event where Franklin Graham will be here in the State of Pennsylvania sometime next year, and I have come into contact with him because of that. Billy Graham ministries has said there are two things that they were interested in during their ministry, and that is proclaiming the gospel and equipping and encouraging others to proclaim the gospel. This particular event will be equipping others to proclaim the gospel. We are happy and pleased that Reverend Zimmerman could be here today, and we wish and encourage him for his activities in the coming year to working with the Billy Graham association of ministries.

The PRESIDING OFFICER. Would the guest of Senator Stefano please rise so that the Senate may give you its usual warm welcome.

(Applause.)

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for purposes of an off-the-floor meeting of the Committee on Rules and Executive Nominations to be held in the Rules room, followed by an off-the-floor meeting of the Committee on Appropriations, to be followed by a Republican caucus to be held in the Majority Caucus Room.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, at the conclusion of the meetings referenced by the Majority Leader, Senate Democrats will meet in the rear of the Chamber for a caucus as well.

The PRESIDING OFFICER. For purposes of meetings of the Committee on Rules and Executive Nominations and the Committee on Appropriations, to be followed by Republican and Democratic caucuses, without objection the Senate stands in recess.

AFTER RECESS

The PRESIDENT (Lieutenant Governor Mike Stack) in the Chair.

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

LEAVE OF ABSENCE

Senator HUGHES asked and obtained a leave of absence for Senator FONTANA, for the remainder of today's Session, for personal reasons.

CALENDAR

BILLS VETOED BY THE GOVERNOR

BILLS OVER IN ORDER

SB 1000 and SB 1001 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILLS ON THIRD CONSIDERATION

**NONPREFERRED APPROPRIATIONS BILLS
OVER IN ORDER**

SB 912, SB 913, SB 914, SB 915 and SB 916 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILLS OVER IN ORDER

HB 263, HB 447 and HB 477 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 482 (Pr. No. 1406) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law, further providing for the title of the act; and, in sale of property, providing for Optional County Demolition and Rehabilitation Fund.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

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

YEA-47

Alloway	Dinniman	McIlhinney	Vance
Argall	Eichelberger	Mensch	Vogel
Aument	Farnese	Pileggi	Vulakovich
Baker	Folmer	Rafferty	Wagner
Bartolotta	Gordner	Sabatina	Ward
Blake	Greenleaf	Scavello	White
Boscola	Haywood	Schwank	Wiley
Brewster	Hughes	Smucker	Williams
Brooks	Hutchinson	Stefano	Wozniak
Browne	Kitchen	Tartaglione	Yaw
Corman	Leach	Teplitz	Yudichak
Costa	McGarrigle	Tomlinson	

NAY-0

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

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

BILL OVER IN ORDER

SB 489 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL LAID ON THE TABLE

SB 606 (Pr. No. 598) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for limited liability for pilots and apprentices.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill was laid on the table.

SB 606 TAKEN FROM THE TABLE

Senator CORMAN. Mr. President, I move that Senate Bill No. 606, Printer's No. 598, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.
The PRESIDENT. The bill will be placed on the Calendar.

BILL OVER IN ORDER TEMPORARILY

HB 683 -- Without objection, the bill was passed over in its order temporarily at the request of Senator CORMAN.

BILLS OVER IN ORDER

SB 691 and HB 698 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 735 (Pr. No. 1407) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, in food protection, further providing for definitions and for license required.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Pileggi has returned, and his temporary Capitol leave is cancelled.

And the question recurring,
Shall the bill pass finally?

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

YEA-47

Alloway	Dinniman	McIlhinney	Vance
Argall	Eichelberger	Mensch	Vogel
Aument	Farnese	Pileggi	Vulakovich
Baker	Folmer	Rafferty	Wagner

Bartolotta	Gordner	Sabatina	Ward
Blake	Greenleaf	Scavello	White
Boscola	Haywood	Schwank	Wiley
Brewster	Hughes	Smucker	Williams
Brooks	Hutchinson	Stefano	Wozniak
Browne	Kitchen	Tartaglione	Yaw
Corman	Leach	Teplitz	Yudichak
Costa	McGarrigle	Tomlinson	

NAY-0

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

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

BILL OVER IN ORDER

HB 837 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 859 (Pr. No. 1421) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 42 (Judiciary and Judicial Procedures) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, in judicial boards and commissions, further providing for definitions and for publication of guidelines; in juvenile matters, further providing for inspection of court files and records; in prisoner litigation, further providing for prisoner filing fees; in particular rights and immunities, further providing for immunity of State parole officers and for immunity of program administrators and supervisors; in sentencing, further providing for dispositions of persons found guilty but mentally ill, for collection of restitution and penalties, for sentencing proceeding and place of confinement, for information required upon commitment and subsequent disposition, for transfer of inmates in need of medical treatment, for applicability, for registry, for initial registration, for duty to inform, for assessments, for administration, for global positioning system technology, for immunity for good faith conduct, for Pennsylvania State Police, for duties of probation and parole officials, for duties of facilities housing sexual offenders, for board and for annual performance audit; in preliminary provisions, further providing for definitions; providing for powers of peace officers; in county correctional institutions, further providing for county recording system; in State intermediate punishment, further providing for definitions; in community corrections centers and community corrections facilities, further providing for definitions, for department, for offenders who may be housed, for authority of Commonwealth employees, for authority of chairman and for escape; providing for certain offenders residing in group-based homes; further providing for probation and parole; in Pennsylvania Board of Probation and Parole, further providing for definitions, for operation of parole system generally, for administration, for Pennsylvania Board of Probation and Parole, for board chairperson, for board action, for meetings, for offices, for district directors, for district office employees, for disciplinary action, for political activities, for advisory committee, for certain offenders residing in group-based homes, for general powers of board, for specific powers of board, for probation services, for sentencing court, for general criteria for parole, for right of access to inmates, for parole power, for violation of terms of parole, for parole procedure, for victim statements, for general rules and special regulations, for investigations for the board of pardons, for early parole of inmates, for definitions, for status as peace officers and for supervisory relationship; providing for supervision of offenders and for agents; in county probation officers' firearm education and training, further providing for definitions, for county probation officers' firearm education and training commission, for commission membership, for powers and duties of commission, for training mandatory, for require-

ments for program participation and for the County Probation Officers' Firearm Education and Training Fund; in Interstate Compacts, further providing for Interstate Compacts, for deputization and for supervisions of persons paroled by other states; conferring powers and imposing duties on the Department of Corrections and Rehabilitation; providing for the transfer of functions, powers and duties; and providing for appropriations for the Office of Victim Advocate.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

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

YEA-37

Alloway	Dinniman	McIlhinney	Vogel
Argall	Eichelberger	Mensch	White
Baker	Farnese	Pileggi	Wiley
Bartolotta	Gordner	Scavello	Williams
Blake	Greenleaf	Schwank	Wozniak
Boscola	Haywood	Smucker	Yaw
Brewster	Hughes	Tartaglione	Yudichak
Browne	Kitchen	Teplitz	
Corman	Leach	Tomlinson	
Costa	McGarrigle	Vance	

NAY-10

Aument	Hutchinson	Stefano	Wagner
Brooks	Rafferty	Vulakovich	Ward
Folmer	Sabatina		

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

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

SB 860 (Pr. No. 1422) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, in preliminary provisions, further providing for definitions; in crime victims, further providing for responsibilities of department, local correctional facilities and board; in administration, further providing for office and for powers and duties and providing for confidentiality of records; and, in financial matters, further providing for costs for offender supervision programs.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

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

YEA-37

Alloway	Dinniman	McGarrigle	Vogel
Argall	Eichelberger	McIlhinney	White
Baker	Farnese	Mensch	Wiley
Bartolotta	Folmer	Pileggi	Williams

Blake	Gordner	Schwank	Wozniak
Boscola	Greenleaf	Smucker	Yaw
Brewster	Haywood	Tartaglione	Yudichak
Browne	Hughes	Teplitz	
Corman	Kitchen	Tomlinson	
Costa	Leach	Vance	

NAY-10

Aument	Rafferty	Stefano	Ward
Brooks	Sabatina	Vulakovich	
Hutchinson	Scavello	Wagner	

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

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

BILLS OVER IN ORDER

HB 907, HB 909 and SB 1065 – Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL AMENDED

HB 1279 (Pr. No. 2218) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating a section of Christopher Columbus Boulevard between Oregon Avenue and Washington Avenue in the City of Philadelphia, Philadelphia County, as the William J. Guarnere and Edward "Babe" Heffron Memorial Boulevard; and designating a portion of US Route 222 in Lancaster County as the Senator Noah W. Wenger Highway.

On the question,

Will the Senate agree to the bill on third consideration?

Senator RAFFERTY offered the following amendment No. A4202:

Amend Bill, page 1, line 4, by striking out "and"

Amend Bill, page 1, line 6, by striking out the period after "Highway" and inserting:

; designating a bridge on that portion of State Route 1029 over the Tunkhannock Creek, Nicholson Township, Wyoming County, as the Jody Allen Cron Memorial Bridge; designating Exit 113, State Ramp 8001, from Interstate 79 onto State Route 208, in Springfield Township, Mercer County, as the Lieutenant Colonel Michael E. McLaughlin Veterans Ramp; designating the interchange of State Route 43 at the Mon-Fayette Expressway Interchange with State Route 88, known as Exit 28, in Washington County as the Marine Cpl. Thomas R. Matty Memorial Interchange; designating a bridge on that portion of State Route 1013, known as Knupp Road, over the Hypocrite Creek, Fairfield Township, Westmoreland County, as the PFC LeRoy D. "Whitey" Schaller Bridge; designating a portion of State Route 711 in New Florence Borough through St. Clair Township, Westmoreland County, as the Veterans Highway; designating a bridge on that portion of State Route 88 over Muddy Creek, Cumberland Township, Greene County, as the Army Specialist Richard W. Kowalewski, Jr., Memorial Bridge; designating the bridge carrying U.S. Route 322 over the east branch of the Brandywine Creek in West Bradford and East Caln Townships, Chester County, as the Robbie and Ryan Miller Memorial Bridge; designating the bridge located on State Route 34 that connects the banks of the Juniata River in Newport, Perry County, as the Paul Reider bridge; and designating a portion of State Route 2029 and 2049, also known as Bath Road, in Bristol Township, Bucks County, as the Sergeant George Stuckey Memorial Road; and making a related repeal.

Amend Bill, page 4, by inserting between lines 9 and 10:
Section 3. Jody Allen Cron Memorial Bridge.

(a) Designation.--The bridge located on State Route 1029 over the Tunkhannock Creek, Nicholson Township, Wyoming County, is hereby designated the Jody Allen Cron Memorial Bridge in memory of PFC Cron's service and sacrifice during the Vietnam Conflict.

(b) Signs.--The Department of Transportation shall erect and maintain appropriate signs displaying the name of the bridge to traffic in both directions on the bridge.

Section 4. Lieutenant Colonel Michael E. McLaughlin Veterans Ramp.

(a) Findings.--The General Assembly finds as follows:

(1) Lieutenant Colonel Michael E. McLaughlin served this country and this Commonwealth with honor and distinction as a member of the Pennsylvania National Guard. He was a native of Tionesta, Forest County, and was a private contractor in Mercer when he mobilized with the 2nd Brigade Combat Team, 28th Infantry Division, of the Pennsylvania National Guard in 2005.

(2) On January 5, 2006, Lieutenant Colonel McLaughlin gave his life in the line of duty when he was killed in action in Ramadi, Iraq. He was the first officer in the Pennsylvania National Guard to be killed in action since World War II.

(b) Designation.--Exit 113, State Ramp 8001, from Interstate 79 onto State Route 208, in Springfield Township, Mercer County, is hereby designated the Lieutenant Colonel Michael E. McLaughlin Veterans Ramp.

(c) Signs.--The Department of Transportation shall erect and maintain appropriate signs at the ramp displaying the name of the ramp.

Section 5. Marine Cpl. Thomas R. Matty Memorial Interchange.

(a) Findings.--The General Assembly finds and declares as follows:

(1) Thomas Richard Matty was born on October 4, 1945, in Denbo, Pennsylvania.

(2) Thomas R. Matty was a 1963 graduate of Bethlehem Center High School where he excelled in many sports, especially baseball. He received a business administration degree from the Educational Institute of Pittsburgh in 1965.

(3) Thomas R. Matty enlisted in the United States Marine Corps in 1966. He attended boot camp training at Parris Island and additional training at Camp Lejeune and at El Toro, California. He arrived in Vietnam on November 9, 1967.

(4) Marine Cpl. Thomas R. Matty made the ultimate sacrifice for his country when he was killed in the vicinity of Quang Nam Province in South Vietnam on December 21, 1967, at 22 years of age.

(5) Bethlehem Center High School continues to honor Marine Cpl. Thomas R. Matty by giving an award to a senior class member in his honor.

(b) Designation.--The interchange of State Route 43 in Washington County at the Mon-Fayette Expressway Interchange with State Route 88, known as Exit 28, is hereby designated the Marine Cpl. Thomas R. Matty Memorial Interchange.

(c) Signs.--The Pennsylvania Turnpike Commission shall erect and maintain appropriate signs displaying the name of the interchange.

Section 6. PFC LeRoy D. "Whitey" Schaller Memorial Bridge.

(a) Designation.--The bridge located on State Route 1013, known as Knupp Road, over the Hypocrite Creek, in Fairfield Township, Westmoreland County, is hereby designated the PFC LeRoy D. "Whitey" Schaller Bridge.

(b) Signs.--The Department of Transportation shall erect and maintain appropriate signs displaying the name of the bridge to traffic in both directions on the bridge.

Section 7. Army Specialist Richard W. Kowalewski, Jr., Memorial Bridge.

(a) Findings.--The General Assembly finds and declares as follows:

(1) Richard W. Kowalewski, Jr., was born on March 31, 1973, in Waynesburg, Pennsylvania.

(2) Richard W. Kowalewski, Jr., enlisted in the United States Army and completed basic training in June 1992.

(3) Specialist Kowalewski was later assigned to the 3rd Battalion, 75th Ranger Regiment.

(4) As part of a United Nations peace keeping operation, Specialist Kowalewski was deployed to Somalia in August 1993.

(5) On October 3, 1993, Specialist Kowalewski, along with 17 other men, were killed in the Battle of Mogadishu. During the battle, a

group of Somalis, armed with automatic weapons and rocket-propelled grenades, ambushed Specialist Kowalewski's convoy while in route to rescue downed pilots of a Black Hawk helicopter.

(6) The encounter has been described as one of our country's most violent firefights since Vietnam. The battle was later depicted in the famous novel and movie "Black Hawk Down."

(7) For his heroic actions during battle, Specialist Kowalewski was awarded the Bronze Star Medal with Valor and the Purple Heart.

(b) Designation.--The Bridge located on State Route 88 in Cumberland Township, Greene County, Section Q10, Segment 0300/0000, Structure Number S-31843, over Muddy Creek is hereby designated the Army Specialist Richard W. Kowalewski, Jr., Memorial Bridge.

(c) Signs.--The Department of Transportation shall erect and maintain appropriate signs which shall display the name of the bridge designated in subsection (b).

Section 8. Robbie and Ryan Miller Memorial Bridge.

(a) Findings.--The General Assembly finds and declares as follows:

(1) Brothers Robert "Robbie" and Ryan Miller were very well respected in their community for their courageous devotion to emergency response.

(2) Robbie and Ryan Miller served as volunteer firefighters for the West Bradford Fire Company, the West Chester Good Will Fire Company and the East Brandywine Fire Company.

(3) Robbie Miller was killed in a motorcycle accident on May 2, 2013.

(4) Tragically, Ryan Miller was also killed in a motorcycle accident on July 19, 2014.

(b) Designation.--The bridge carrying U.S. Route 322 over the east branch of the Brandywine Creek in West Bradford and East Caln Townships, Chester County, is hereby designated the Robbie and Ryan Miller Memorial Bridge.

(c) Signs.--The Department of Transportation shall erect and maintain appropriate signs which shall display the name of the bridge designated under subsection (b).

Section 9. Paul Reider Bridge.

(a) Findings.--The General Assembly finds and declares as follows:

(1) In 1789, Paul Reider purchased a tract of land on the banks of the Juniata River from David English.

(2) Over time, Reider's descendants founded the town of Reider's Ferry at that point on the Juniata River, which was formally established in 1804 as the town of Reidersville.

(3) Today the town of Reidersville is known as Newport.

(4) The Reider's Ferry Bridge Company, founded in 1838, constructed a covered bridge in 1851 spanning the Juniata River connecting Newport to Howe Township.

(5) That bridge was destroyed in an 1889 flood and replaced with another covered bridge.

(6) In 1903, the covered bridge was replaced with an iron bridge.

(7) In 1934, the iron bridge was replaced with a steel bridge, which has remained unnamed.

(8) The Newport Celebrates 175 Steering Committee and the Newport Revitalization and Preservation Society both have voted unanimously that this community founder is deserving of commemorative action.

(b) Designation.--The bridge located on State Route 34 that connects the banks of the Juniata River in Newport, Perry County, is hereby designated as the Paul Reider Bridge.

(c) Signs.--The Department of Transportation shall erect and maintain appropriate signs displaying the name of the bridge to traffic in both directions on the bridge.

Section 10. Sergeant George F. Stuckey Memorial Road.

(a) Findings.--

(1) Sergeant George F. Stuckey was born June 29, 1939, in Michigan and came to the Bucks County area when he was a child. He was a graduate of Delhaas High School.

(2) Sergeant Stuckey was a police officer with the Bristol Township Police Department where he served for seven years. He held the rank of detective for five years before becoming acting sergeant in the detective division. He served as the department's photographic expert.

(3) Sergeant Stuckey made the ultimate sacrifice on March 29,

1972, when he was shot and killed in the line of duty while stopping a vehicle involved in a bank robbery along Bath Road in Bristol Township. The shooting occurred only a couple hundred feet from the police headquarters.

(4) Sergeant Stuckey was the first police officer in Bucks County to be killed in the line of duty.

(b) Designation.--The section of State Route 2029, known as Bath Road, that runs between US Route 13 (Segment 10) to Oxford Valley Road (Segment 40) and the section of State Route 2049, also known as Bath Road, that runs between Oxford Valley Road (Segment 10) to State Route 413 (Segment 40) in Bristol Township, Bucks County, are hereby designated as the Sergeant George F. Stuckey Memorial Road.

(c) Signs.--The Department of Transportation shall erect and maintain appropriate signs displaying the name of the highway to traffic in both directions on the highway.

Section 11. The act of May 13, 2015 (P.L.14, No.3), entitled "An act designating the interchange of State Route 43 at the Mon-Fayette Expressway Interchange with State Route 88, known as Exit 28, in Washington County as the Marine Cpl. Thomas R. Matty Memorial Interchange; designating a bridge on that portion of State Route 1013, known as Knupp Road, over the Hypocrite Creek, Fairfield Township, Westmoreland County, as the PFC LeRoy D. "Whitey" Schaller Bridge; designating a portion of State Route 711 in New Florence Borough through St. Clair Township, Westmoreland County, as the Veterans Highway; designating a bridge on that portion of State Route 88 over Muddy Creek, Cumberland Township, Greene County, as the Army Corporal Richard W. Kowalewski, Jr., Memorial Bridge; designating the bridge carrying U.S. Route 322 over the east branch of the Brandywine Creek in West Bradford and East Caln Townships, Chester County, as the Robbie and Ryan Miller Memorial Bridge; designating the bridge located on State Route 34 that connects the banks of the Juniata River in Newport, Perry County, as the Paul Reider bridge; and designating a portion of State Route 2029 and 2049, also known as Bath Road, in Bristol Township, Bucks County, as the Sergeant George Stuckey Memorial Road," is repealed.

Amend Bill, page 4, line 10, by striking out "3" and inserting:
12

On the question,

Will the Senate agree to the amendment?

It was agreed to.

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

BILLS OVER IN ORDER

HB 1335 and HB 1340 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

SECOND CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL ON SECOND CONSIDERATION

SB 1073 (Pr. No. 1423) -- The Senate proceeded to consideration of the bill, entitled:

An Act to provide from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2015, to June 30, 2016, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2015; to provide appropriations from the State Lottery Fund, the Tobacco Settlement Fund, the Aviation Restricted Account, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Account Guaranteed Savings Program Fund, the Banking Fund, the Firearm Records Check

Fund, the Ben Franklin Technology Development Authority Fund, the Oil and Gas Lease Fund, the Home Improvement Account, the Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund, the Insurance Regulation and Oversight Fund, the Pennsylvania Racehorse Development Restricted Receipt Account and the Justice Reinvestment Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2015, to June 30, 2016; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2015, to June 30, 2016, for the proper operation of several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund money; and to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2015.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

HB 49 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION

HB 57 (Pr. No. 49) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in rates, further providing for sliding scale of rates and adjustments; and, in natural gas competition, further providing for duties of natural gas distribution companies.

Considered the second time and agreed to,

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

BILLS OVER IN ORDER

SB 126, SB 127, SB 201 and HB 400 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 406 (Pr. No. 2398) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, in senior citizens property tax and rent rebate assistance, further providing for definitions and for filing of claim.

Considered the second time and agreed to,

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

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

BILL REREFERRED

HB 414 (Pr. No. 2545) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, in standards for municipal pension systems, further providing for definitions and providing for special procedures for certain professional services contracts and for special provisions to stabilize municipal retirement plans.

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

BILLS OVER IN ORDER

HB 455, HB 602, SB 731, SB 805, SB 891 and SB 917 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION

SB 936 (Pr. No. 1148) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in support matters generally, further providing for attachment of income.

Considered the second time and agreed to,

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

BILLS OVER IN ORDER

SB 952 and SB 976 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION, AMENDED

SB 984 (Pr. No. 1374) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 53 (Municipalities Generally), 66 (Public Utilities) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in taxicabs and limousines in first class cities, further providing for definitions; in general provisions, further providing for definitions; in powers and duties, providing for power of commission to confiscate, impound and sell vehicles; in contract carrier by motor vehicle and broker, further providing for declaration of policy and definitions; providing for motor carrier regulations and for transportation network service; and, in general provisions, further providing for definitions.

On the question,

Will the Senate agree to the bill on second consideration?

Senator BARTOLOTTA offered the following amendment
No. A4486:

Amend Bill, page 1, line 4, by inserting after "definitions":
and for certificate of public convenience required

Amend Bill, page 3, by inserting between lines 6 and 7:

Section 1.1. Section 5741(c) of Title 53 is amended to read:
§ 5741. Certificate of public convenience required.

* * *

(c) Restrictions.--

(1) Certificates issued pursuant to this subchapter shall be nontransferable unless a transfer is approved by the authority.

(2) A limousine service provider operating pursuant to an authority-issued certificate of public convenience and a filed tariff permitting the limousine service provider to charge mileage-based rates on the effective date of this paragraph shall be permitted to continue to charge mileage-based rates and to be regulated in the same manner as traditional limousine service providers.

* * *

Amend Bill, page 4, line 22, by striking out "and" and inserting:

or
Amend Bill, page 4, line 25, by striking out the period after "commission" and inserting:

operating in this Commonwealth. The term includes a common carrier, common carrier by motor vehicle or motor carrier, that uses a digital network to facilitate prearranged rides.

Amend Bill, page 4, lines 26 through 30; page 5, line 1; by striking out all of said lines on said pages

Amend Bill, page 5, lines 8 through 12, by striking out all of said lines and inserting:

"Personal vehicle." As follows:

(1) A vehicle that is used by a transportation network company driver and is owned, leased or otherwise authorized for use by the transportation network company driver.

(2) The term does not include:

Amend Bill, page 5, lines 17 through 20, by striking out ", except a call and demand" in line 17, all of lines 18 and 19 and "26 (relating to transportation network service)" in line 20

Amend Bill, page 6, line 1, by striking out "driver to a passenger, beginning when a driver" and inserting:

transportation network company driver to a passenger, beginning when a transportation network company driver

Amend Bill, page 6, line 3, by striking out "a requesting" and inserting:

the

Amend Bill, page 6, line 4, by striking out "requesting"

Amend Bill, page 6, lines 8 through 10, by striking out "unless the service is provided" in line 8, all of line 9 and "commission" in line 10

Amend Bill, page 6, line 12, by inserting after "carrier":

, unless the service is provided by a dual motor carrier

Amend Bill, page 6, lines 19 through 27, by striking out all of said lines and inserting:

"Transportation network company." As follows:

(1) A person that meets all of the following:

(i) Is licensed by the commission.

(ii) Operates in this Commonwealth.

(iii) Uses a digital network to facilitate prearranged rides.

(iv) If rides are initiated in a city of the first class, obtains a certificate to operate from the parking authority of the city of the first class.

(2) Dual motor carriers licensed by the commission under section 2604 (relating to service standards and requirements) that use a digital network to facilitate prearranged rides.

Amend Bill, page 6, line 30, by inserting after "company":

, including a dual motor carrier licensed by the commission.

Amend Bill, page 7, lines 15 and 16, by striking out "the service being provided" and inserting:

a prearranged ride

Amend Bill, page 8, line 3, by striking out "passenger motor carrier services" and inserting:

a prearranged ride

Amend Bill, page 10, line 3, by striking out all of said line

Amend Bill, page 12, lines 9 through 16, by striking out all of said lines

Amend Bill, page 12, line 25, by striking out "Service standards and requirements" and inserting:

Licenses, certificates and regulations

Amend Bill, page 13, by inserting between lines 11 and 12:

"Authority." A parking authority of a city of the first class.

Amend Bill, page 13, line 26, by inserting after "sources.--A":

transportation network company may not be considered a

Amend Bill, page 14, line 7, by inserting after "provided":

under this chapter

Amend Bill, page 14, line 20, by striking out "special"

Amend Bill, page 14, line 27, by striking out "special"

Amend Bill, page 15, line 30, by striking out "passengers and"

Amend Bill, page 16, line 29, by striking out "Insurance" and inserting:

Notwithstanding paragraphs (1), (2) and (3), insurance

Amend Bill, page 17, line 1, by striking out "rates" and inserting:

insurance coverage

Amend Bill, page 17, line 1, by striking out "rate" and inserting:

insurance coverage

Amend Bill, page 17, lines 16 and 17, by striking out "under paragraphs (2), (3), (4) and (5) this section" and inserting:

by a transportation network company under paragraph (4)

Amend Bill, page 17, line 22, by striking out "may" and inserting:

shall

Amend Bill, page 18, line 19, by inserting after "company":

driver

Amend Bill, page 20, line 26, by striking out "as a condition of entering into a lease agreement"

Amend Bill, page 22, line 10, by striking out "Service standards and requirements" and inserting:

Licenses, certificates and regulations

Amend Bill, page 25, line 7, by inserting after "Current":

records of adequate

Amend Bill, page 25, line 8, by striking out "information"

Amend Bill, page 25, lines 11 and 12, by striking out "Vehicle registration and proof of vehicle" in line 11 and all of line 12 and inserting:

Valid driver's license and vehicle registration and proof of vehicle inspections.

Amend Bill, page 27, lines 18 through 20, by striking out "The Department of Transportation" in line 18 and all of lines 19 and 20

Amend Bill, page 27, line 21, by striking out "a" and inserting:

and provide

Amend Bill, page 27, line 21, by inserting after "program":

materials

Amend Bill, page 27, line 23, by striking out "program" and inserting:

materials

Amend Bill, page 27, line 23, by striking out "administered" and inserting:

provided

Amend Bill, page 27, line 26, by striking out "platform" and inserting:

digital network

Amend Bill, page 28, line 25, by striking out "anticipates offering" and inserting:

is logged onto the digital network

Amend Bill, page 29, line 10, by inserting after "General.--Where":

transportation network

Amend Bill, page 29, line 26, by inserting after "the":

commission or

Amend Bill, page 30, line 25, by striking out "and" and inserting:

or

Amend Bill, page 30, line 28, by striking out "and" and inserting:

or

Amend Bill, page 31, line 3, by inserting after "lien":

or lease

Amend Bill, page 31, line 3, by inserting after "lienholder":

or lessor

Amend Bill, page 31, line 4, by inserting after "lien":

or lease

Amend Bill, page 31, line 5, by striking out "require" and inserting:

notify

Amend Bill, page 31, line 8, by striking out "an affidavit" and inserting:

a signed document

Amend Bill, page 31, line 10, by inserting after "lienholder":

or lessor

Amend Bill, page 31, line 10, by striking out "affidavit" and inserting:

document

Amend Bill, page 32, line 18, by striking out "and"

Amend Bill, page 32, line 20, by striking out the period after "2603.1" and inserting:

; and

(D) the holder of the insurance policy covering the automobile if the driver is not the holder of the policy.

Amend Bill, page 32, line 23, by striking out "2604.1(b)(6) or (7)" and inserting:

2604.1(b)(5) or (6)

Amend Bill, page 33, line 2, by striking out "anticipates offering" and inserting:

is logged onto the digital network

Amend Bill, page 33, line 3, by inserting after "chapter.":

Placards or other markings must be clearly distinguishable and clearly visible from the outside of the vehicle.

Amend Bill, page 33, line 8, by inserting after "vehicle":

and has received notification of all requirements under section 2603.2 (relating to disclosures)

Amend Bill, page 33, line 10, by inserting after "company":

or policyholder

Amend Bill, page 33, line 21, by inserting after "driver's":

electronic or written

Amend Bill, page 33, line 23, by striking out "Vehicles" and inserting:

Personal vehicles

Amend Bill, page 33, line 24, by striking out "company" where it occurs the second time

Amend Bill, page 34, lines 10 through 13, by striking out "commission's regulations or orders when providing" in line 10 and all of lines 11 through 13 and inserting:

commission under section 2605(b)(8) (relating to transportation network company drivers).

Amend Bill, page 34, lines 22 through 24, by striking out all of said lines and inserting:

inspection must be conducted by a facility approved by the Department of Transportation.

Amend Bill, page 36, line 16, by inserting after "company":

or a transportation network company driver

Amend Bill, page 37, lines 14 through 21, by striking out all of said lines and inserting:

(b) Disqualification.--

(1) The commission may issue an order to a transportation network company requiring disqualification of a driver from being a transportation network company driver if:

(i) during any three-year period the driver commits five or more violations under this title; or

(ii) at any time after the date of enactment of this act, the driver is convicted of any criminal offense described under section 2604.1(b)(5) (relating to licensure requirements).

(2) A commission directive to the transportation network company to disqualify a driver from being a transportation network company driver may occur only after the filing and adjudication of a formal complaint pursuant to Chapter 7 (relating to procedure on complaints) and 52 Pa. Code Ch. 5 (relating to formal proceedings), by which the transportation network company shall be afforded full due process, including notice and opportunity to be heard.

(3) The commission may adopt regulations to allow for the reinstatement of a driver following an appropriate disqualification period and compliance with any conditions imposed by the commission.

Amend Bill, page 38, line 7, by striking out "amounts" and inserting:

gross receipts

Amend Bill, page 40, lines 24 and 25, by striking out "actual amount" and inserting:

gross receipts from all fares

Amend Bill, page 41, lines 1 through 4, by striking out "Revenues of the transportation network company for" in line 1 and all of lines 2 through 4

Amend Bill, page 41, line 10, by striking out ", and every March 30 quadrennially thereafter." and inserting:

Information reported shall not be subject to the act of February 14, 2008 (PL 6, No 3), known as the Right-to-Know Law.

Amend Bill, page 42, lines 22 through 30; page 43, lines 1 through 3; by striking out all of said lines on said pages and inserting:

(3) The following shall apply:

(i) The authority may issue an order to a transportation network company requiring disqualification of a driver from being a transportation network company driver if:

(A) during any three-year period the driver commits five or more violations under this title; or

(B) at any time after the effective date of this act, the driver is convicted of a criminal offense described under section 2604.1(b)(5) (relating to licensure requirements).

(ii) An authority directive to the transportation network company to disqualify a driver from being a transportation network company driver may occur only after the filing and adjudication of a formal complaint pursuant to 52 Pa. Code Ch. 1005 (relating to formal proceedings), by which the transportation network company shall be afforded full due process, including notice and opportunity to be heard.

(iii) The authority may adopt regulations to allow reinstatement of a driver following an appropriate disqualification period and compliance with any conditions imposed by the authority.

(iv) The authority may only confiscate the vehicle of a driver who continues to provide transportation network company service while disqualified or following suspension or revocation of a transportation network company's license.

Amend Bill, page 43, line 29, by striking out "in 60 days" and inserting:

immediately

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentlewoman from Washington, Senator Bartolotta.

Senator BARTOLOTTA. Mr. President, I stand here today to offer an amendment to Senate Bill No. 984, legislation which I have sponsored which builds on the strong foundation created by our colleague, Senator Fontana, and provides permanent authority for transportation network companies, such as Uber and Lyft, to operate in the Commonwealth. Presently, these companies operate under temporary experimental use authority granted by the Pennsylvania Public Utility Commission, the PUC, and it expires next year. Transportation network companies have been becoming increasingly popular with the public and are revolutionizing how people think about their transportation choices. In so doing, they are delivering many benefits to communities and, ultimately, to the consumer. More than 20 other Pennsylvania municipalities have already enacted laws governing such services. It is time that our entire Commonwealth embraces these innovative new business models, and does so by insuring the appropriate safety, insurance, and driver requirements are in place. Benefits to consumers like using an app to get a ride in Pittsburgh, Allentown, Bucks County, or even a small town like Monongahela in the 46th Senatorial District, when there may be no other transportation options.

The amendment I offer today makes some technical corrections to insure clarity in insurance and notification requirements for TNCs and dual motor carrier operations. It also contains a few other substantive changes, including changes in the disqualification process in which a TNC may become ineligible to provide TNC service. For example, a driver could become disqualified if they have five or more violations, such as failing to meet the PUC vehicle marking requirements during a 3-year period. The PUC may also adopt regulations to allow for the reinstatement of a driver.

I have worked with a number of key stakeholders, a very long list, over the last several months in crafting this legislation. In the

end, I believe the legislation, which was crafted in the spirit of compromise, supports both innovation and consumers. I ask my colleagues to cast an affirmative vote on my amendment to Senate Bill No. 984.

Thank you, Mr. President.

POINT OF ORDER

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

Senator TEPLITZ. Mr. President, I need to ask for a ruling under Rule 20(c)(2) of our rules. The law firm with which I am affiliated represented Uber drivers in their proceedings before the PUC last year. I was not involved in the case and do not really know anything about it other than the fact of the representation, and I need to ask whether that would preclude me from voting on the amendment or the final bill.

The PRESIDENT. The Chair thanks the gentleman, who asks for a ruling of the Chair whether there is the existence of a conflict which prevents him from voting on the current legislation. If the gentleman will hold on for one minute, I will consult and give him an answer momentarily.

Senator Teplitz has asked for a ruling from the Chair regarding a potential conflict related to the legislation and the amendment that is currently before the Senate. The Chair thanks the gentleman for his inquiry about this conflict of interest. In the factual situation of which you have just relayed, Senator Teplitz, the Chair rules that there is no conflict of interest and that in accordance with Rule 20(c)(2), you must vote on this legislation for two reasons. First, under the facts as you relayed them to the Chair, the Chair finds that the gentleman is a member of a class of individuals who may or may not be affected by any actions on this legislation. Secondly, the Chair does not find that any votes that the gentleman may cast would be particularly personal to the Senator or privately affect the Senator alone. So, the Chair rules that you, Senator Teplitz, must vote on the legislation before the Senate.

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

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

YEA-47

Alloway	Dinniman	McIlhinney	Vance
Argall	Eichelberger	Mensch	Vogel
Aument	Farnese	Pileggi	Vulakovich
Baker	Folmer	Rafferty	Wagner
Bartolotta	Gordner	Sabatina	Ward
Blake	Greenleaf	Scavello	White
Boscola	Haywood	Schwank	Wiley
Brewster	Hughes	Smucker	Williams
Brooks	Hutchinson	Stefano	Wozniak
Browne	Kitchen	Tartaglione	Yaw
Corman	Leach	Teplitz	Yudichak
Costa	McGarrigle	Tomlinson	

NAY-0

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

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

It was agreed to.

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

BILLS OVER IN ORDER

SB 986, SB 1013, SB 1022 and SB 1047 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL REREFERRED

SB 1052 (Pr. No. 1389) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 25 (Elections) of the Pennsylvania Consolidated Statutes, in uniform military and overseas voters, further providing for definitions, for duties and responsibilities of secretary and for registering to vote.

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

BILLS OVER IN ORDER

SB 1054, SB 1067 and SB 1068 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION AND REREFERRED

SB 1071 (Pr. No. 1410) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 24 (Education), 51 (Military Affairs) and 71 (State Government) of the Pennsylvania Consolidated Statutes, extensively revising pension provisions: for the Public School Employees' Retirement System, in the areas of preliminary provisions, of membership, contributions and benefits, of School Employee's Defined Contribution Plan and of administration and miscellaneous provisions; for health insurance for retired school employees, in the area of preliminary provisions; for military pensions, in the area of military leave of absence; for boards and offices, in the area of Independent Fiscal Office; for the State Employees' Retirement System, in the areas of preliminary provisions, of membership, credited service, classes of service and eligibility for benefits, of State Employees' Defined Contribution Plan, of contributions, of benefits and of administration, funds, accounts, general provisions; and providing, as to the revisions, for construction and administration, for applicability, for funding, for liability, for State Employee member statements and for State Employees Retirement Board obligations.

Considered the second time and agreed to,

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

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

BILLS OVER IN ORDER

HB 1161, HB 1170, HB 1195, HB 1201, HB 1278, HB 1296, HB 1329 and HB 1341 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

SENATE RESOLUTION No. 215, ADOPTED

Senator CORMAN, without objection, called up from page 13 of the Calendar, Senate Resolution No. 215, entitled:

A Resolution directing the Joint State Government Commission to complete a comprehensive review and study of the best practices used by private businesses and other public entities in the leasing, acquisition and management of office, warehouse and other types of space and to issue a report.

On the question, Will the Senate adopt the resolution? A voice vote having been taken, the question was determined in the affirmative.

THIRD CONSIDERATION CALENDAR RESUMED

HB 683 CALLED UP

HB 683 (Pr. No. 1427) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 4 of the Third Consideration Calendar, by Senator CORMAN.

BILL OVER IN ORDER

HB 683 (Pr. No. 1427) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, in senior citizens property tax and rent rebate assistance, further providing for definitions.

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

AMENDMENT OFFERED

Senator ARGALL offered the following amendment No. A4499:

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

Providing for tax levies and information related to taxes; authorizing the imposition of a personal income tax or an earned income tax by a school district subject to voter approval; providing for imposition of and exclusions from a sales and use tax for the stabilization of education funding, for increase to the personal income tax, for certain licenses, for hotel occupancy tax, for procedure and administration of the tax, for expiration of authority to issue certain debt and for reporting by local government units of debt outstanding; establishing the Education Stabilization Fund; providing for disbursements from this fund; providing for senior citizen property tax rent rebate assistance; and making repeals.

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 Section 1507. Effective date.

Amend Bill, page 1, lines 15 through 20; page 2, lines 1 through

30; page 3, lines 1 through 22; by striking out all of said lines on said pages and inserting:

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

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

Section 102. Definitions.

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

"Department." The Department of Revenue of the Commonwealth.
 "Education Stabilization Fund." The Education Stabilization Fund established in section 1302.

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

"Governing body." The board of school directors of a school district, except that the term shall mean the city council of a city of the first class for purposes of the levy and collection of any tax in a school district of the first class.

"Internal Revenue Code of 1986." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 166).

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

"Public School Code of 1949." The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

"School district." A school district of the first class, first class A, second class, third class or fourth class, including any independent school district. For purposes of the levy, assessment and collection of any tax in a school district of the first class, the term shall include the City Council.

"School per capita tax." The tax authorized pursuant to section 679 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949,

"Secretary." The Secretary of Revenue of the Commonwealth.

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

CHAPTER 3

Taxation by School Districts

Section 301. Scope.

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

Section 302. Definitions.

The words and phrases used in this chapter shall have the same meanings given to them in the Tax Reform Code of 1971 or The Local Tax Enabling Act unless the context clearly indicates otherwise.

Section 303. Limitation.

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

Section 304. Preemption.

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

Section 305. General tax authorization.

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

(b) Personal income tax.--

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

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

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

(4) A personal income tax imposed under the authority of this

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

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

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

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

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

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

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

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

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

(c) Earned income and net profits tax.--

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

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

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

Section 306. Referendum.

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

(b) Approved by electorate.--

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

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

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

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

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

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

includes the following:

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

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

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

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

(e) Notification.--

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

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

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

(g) Adoption of resolution.--

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

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

Section 307. Continuity of tax.

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

Section 308. Collections.

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

Section 309. Credits.

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

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

Section 310. Exemption and special provisions.

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

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

Section 311. Regulations.

A school district that imposes:

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

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

form Code of 1971.

**CHAPTER 4
EDUCATION TAX**

Section 401. Education tax.

(a) General rule.--In addition to the tax collected under section 302 of the Tax Reform Code of 1971, the Commonwealth shall impose and administer the tax set forth in subsection (b) in the same manner as the tax under Article III of the Tax Reform Code of 1971.

(b) Imposition of tax.--

(1) Every resident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income enumerated in section 303 of the Tax Reform Code of 1971, a tax upon each dollar of income received by that resident during that resident's taxable year at the rate of 1.88%.

(2) Every nonresident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income enumerated in section 303 of the Tax Reform Code of 1971 from sources within this Commonwealth, a tax upon each dollar of income received by that nonresident during that nonresident's taxable year at the rate of 1.88%.

(c) Deposit in Education Stabilization Fund.--

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

(2) So much of the proceeds of the tax imposed by this chapter as shall be necessary for the payment of refunds, enforcement or administration under this chapter is hereby appropriated to the department for such purposes.

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

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

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

Section 700. Scope.

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

Section 701. Definitions.

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

(a) "Soft drinks."

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

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

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

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

of business, representative or agent is authorized to do business within this Commonwealth.

(1.1) Providing taxable services.

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

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

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

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

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

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

(4) The term does not include:

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

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

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

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

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

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

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

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

(4) Building, rebuilding, repairing and making additions to, or

replacements in or upon vessels designed for commercial use of registered tonnage of 50 tons or more when produced on special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of or for the account of the owner.

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

- (i) product or utility service; or
 - (ii) method of producing a product or utility service,
- but in either case not including market research or research having as its objective the improvement of administrative efficiency.

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

(7) Remanufacture or retrofit by a manufacturer or remanufacturer of aircraft, armored vehicles, other defense-related vehicles having a finished value of at least \$50,000. Remanufacture or retrofit involves the disassembly of such aircraft, vehicles, parts or components, including electric or electronic components, the integration of those parts and components with other used or new parts or components, including the salvaging, recycling or reclaiming of the used parts or components and the assembly of the new or used aircraft, vehicles, parts or components. For purposes of this clause, the following terms or phrases have the following meanings:

- (i) "aircraft" means fixed-wing aircraft, helicopters, powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned aircraft and gliders;
- (ii) "armored vehicles" means tanks, armed personnel carriers and all other armed track or semitrack vehicles; and
- (iii) "other defense-related vehicles" means trucks, truck-tractors, trailers, jeeps and other utility vehicles, including any unmanned vehicles.

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

The term does not include constructing, altering, servicing, repairing or improving real estate or repairing, servicing or installing tangible personal property, nor the producing of a commercial motion picture, nor the cooking, freezing or baking of fruits, vegetables, mushrooms, fish, seafood, meats, poultry or bakery products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) The processing of used lubricating oils.

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

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

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

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

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

(17) The producing of mobile telecommunications services.

(18) The collection, washing, sorting, inspecting and packaging of eggs.

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

(f) "Purchase at retail."

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

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

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

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

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

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

(g) "Purchase price."

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

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

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

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

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

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

(ii) The election must be made at the time of filing a tax return with the department and reporting the tax liability and paying the proper tax due plus all accrued penalties and interest, if any, within six months of the due date of such report and payment, as provided for by section 717(a) and (c).

(6) The purchase price of employment agency services and help supply services shall be the service fee paid by the purchaser to the vendor or supplying entity. The term "service fee," as used in this subclause, means the total charge or fee of the vendor or supplying entity minus the costs of the supplied employee which costs are wages, salaries, bonuses and commissions, employment benefits, expense reimbursements and payroll and withholding taxes, to the extent that these costs are specifically itemized or that these costs in aggregate are stated

in billings from the vendor or supplying entity. To the extent that these costs are not itemized or stated on the billings, then the service fee shall be the total charge or fee of the vendor or supplying entity.

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

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

(9) Amounts representing on-the-spot cash discounts, employee discounts, volume discounts, store discounts such as "buy one, get one free," wholesaler's or trade discounts, rebates and store or manufacturer's coupons shall establish a new purchase price if both the item and the coupon are described on the invoice or cash register tape. An amount representing a discount allowed for prompt payment of bills which is dependent upon an event occurring after the completion of the sale may not be deducted in computing the tax. A sale is completed when there is a transfer of ownership of the property or services to the purchaser.

(h) "Purchaser." Any person who acquires, for a consideration, the ownership, custody or possession by sale, lease or otherwise of tangible personal property, or who obtains services in exchange for a purchase price but not including an employer who obtains services from his employees in exchange for wages or salaries when such services are rendered in the ordinary scope of their employment.

(i) "Resale."

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

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

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

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

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

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

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

(j) "Resident."

(1) Any natural person:

(i) who is domiciled in this Commonwealth; or

(ii) who maintains a permanent place of abode within this

Commonwealth and spends in the aggregate more than 60 days of the year within this Commonwealth.

(2) Any corporation:

- (i) incorporated under the laws of this Commonwealth;
- (ii) authorized to do business or doing business within this Commonwealth; or
- (iii) maintaining a place of business within this Commonwealth.

(3) Any association, fiduciary, partnership or other entity:

- (i) domiciled in this Commonwealth;
- (ii) authorized to do business or doing business within this Commonwealth; or
- (iii) maintaining a place of business within this Commonwealth.

(k) "Sale at retail."

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

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

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

- (i) washing, cleaning, waxing, polishing or lubricating of motor vehicles of another, regardless of whether any tangible personal property is transferred in conjunction with the activity; and
- (ii) inspecting motor vehicles pursuant to the mandatory requirements of 75 Pa.C.S. (relating to vehicles).

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

(5) (Reserved).

(6) (Reserved).

(7) (Reserved).

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

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

(A) The manufacture of tangible personal property.

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

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

(D) Processing as defined in clause (d). The exclusions provided in this paragraph or paragraph (A), (B) or (C) do not apply to any vehicle required registered under 75 Pa.C.S. (relating to vehicles), except those vehicles used directly by a public utility engaged in business as a common carrier; to maintenance facilities; or to materials, supplies or equipment to be used or consumed in the construction, reconstruction, remodeling, repair or maintenance of real estate other than directly

used machinery, equipment, parts or foundations that may be affixed to such real estate. The exclusions provided in this paragraph or paragraph (A), (B) or (C) do not apply to tangible personal property or services to be used or consumed in managerial sales or other nonoperational activities, nor to the purchase or use of tangible personal property or services by any person other than the person directly using the same in the operations described in this paragraph or paragraph (A), (B) or (C).

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

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

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

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

The exclusions provided in paragraphs (A), (B), (C) and (D) do not apply to the services enumerated in clauses (k)(11) through (18) and (w) through (kk), except that the exclusion provided in this subclause for farming, dairying and agriculture shall apply to the service enumerated in clause (z).

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

(10) The term, with respect to liquor and malt or brewed beverages, includes the sale of liquor by any Pennsylvania liquor store to any person for any purpose, and the sale of malt or brewed beverages by a manufacturer of malt or brewed beverages, distributor or importing distributor to any person for any purpose, except sales by a manufacturer of malt or brewed beverages to a distributor or importing distributor or sales by an importing distributor to a distributor within the meaning of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The term does not include any sale of malt or brewed beverages by a retail dispenser or any sale of liquor or malt or brewed beverages by a person holding a retail liquor license within the meaning of and pursuant to the provisions of the Liquor Code, but shall include any sale of liquor or malt or brewed beverages other than pursuant to the provisions of the Liquor Code.

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

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

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

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

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

(16) (Reserved).

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

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

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

(20) Except as otherwise provided under section 704, the rendition for a consideration of any service enumerated in clause (dd) when the primary objective of the purchaser is the receipt of any benefit of the service performed, as distinguished from the receipt of property.

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

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

vice address in this Commonwealth, intrastate telecommunications service with the exception of:

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

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

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

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

(o) "Use."

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

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

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

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

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

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

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

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

(i) The manufacture of tangible personal property.

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

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

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

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

sions provided in subparagraphs (i), (ii), (iii) and this subparagraph do not apply to tangible personal property or services to be used or consumed in managerial sales or other nonoperational activities, nor to the purchase or use of tangible personal property or services by any person other than the person directly using the same in the operations described in subparagraphs (i), (ii), (iii) and this subparagraph. The exclusion provided in subparagraph (iii) does not apply to:

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

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

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

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

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

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

(8) (Reserved).

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

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

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

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

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

(14) (Reserved).

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

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

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

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

(19) Except as otherwise provided under section 704, the obtaining by the purchaser of any service enumerated in clause (dd) when the primary objective of the purchaser is the receipt of any benefit of the service performed, as distinguished from the receipt of property.

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

of employment renders services to his employer in exchange for wages and salaries.

(q) "NAICS." The 2012 North American Industry Classification System developed by the Federal Office of Management and Budget and published at 76 Fed. Reg. 159 (Aug. 17, 2011) or its successor revision.

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

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

(t) "Transient vendor."

(1) Any person who:

(i) brings into this Commonwealth, by automobile, truck or other means of transportation, or purchases in this Commonwealth tangible personal property the sale or use of which is subject to the tax imposed by this chapter or comes into this Commonwealth to perform services the sale or use of which is subject to the tax imposed by this chapter;

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

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

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

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

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

(v) "Show." An event, the primary purpose of which involves the display or exhibition of any tangible personal property or services for sale, including, but not limited to, a flea market, antique show, coin show, stamp show, comic book show, hobby show, automobile show, fair or any similar show, whether held regularly or of a temporary nature, at which more than one vendor displays for sale or sells tangible personal property or services subject to tax under section 702.

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

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

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

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

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

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

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

(1) dressing, bathing or feeding;

(2) supervising self-administered medication;

(3) transferring a person to or from a bed or wheelchair; or

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

(dd) "NAICS taxable services." Any service performed in this Commonwealth as defined in the following subsectors and industries of the revised 2012 NAICS developed by the Federal Office of Management and Budget and published at 76 Fed. Reg. 159 (Aug. 17, 2011) or its successor revision:

481, for intrastate transport of persons

482, for intrastate transport of persons

483, for intrastate transport of persons

4851, for intrastate transport of persons

4852, for intrastate transport of persons

4853, for intrastate transport of persons

4855, for intrastate transport of persons

4859, for intrastate transport of persons

487

48841

5111

5112

5121

512131

512132

523930

541

5611

5612

5613

5614

5615

5619

5621

Nontuition and non-housing-related charges imposed by the following industries: 6112, 6113, 6114, 6115 and 6116

6216, 6219, 6231, 6232, 6233, 6239, 6241, 6242, 6243, unless provided by a nonprofit organization

6244

7111, unless imposed by industry 61110 or a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity that is authorized to do business in this Commonwealth as a nonprofit corporation or unin-

corporated association under the laws of this Commonwealth, including a youth or athletic, volunteer fire, ambulance, religious, charitable, fraternal, veterans or civic association or any separately chartered auxiliary of the foregoing and operated on a nonprofit basis

7112, unless imposed by industry 61110 or a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity that is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including a youth or athletic, volunteer fire, ambulance, religious, charitable, fraternal, veterans or civic association or any separately chartered auxiliary of the foregoing and operated on a nonprofit basis

7113

7114

712

7131

7139

7212

7224

8121

8122

8123

8129

(ee) (Reserved).

(ff) (Reserved).

(gg) (Reserved).

(hh) (Reserved).

(ii) (Reserved).

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

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

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

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

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

(mm) (Reserved).

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

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

(pp) "Building machinery and equipment." Generation equipment, storage equipment, conditioning equipment, distribution equipment and

termination equipment, limited to the following:

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

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

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

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

(2) the United States; or

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

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

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

- (1) Subscriber charges for access to a video dial tone system.
- (2) Charges to video programmers for the transport of video programming.
- (3) Charges for access to the Internet. Access to the Internet does not include any of the following:

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

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

- (4) Mobile telecommunications services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ddd) (Reserved).

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

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

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

(hhh) "Food and beverages." All food and beverages for human consumption.

SUBCHAPTER B SALES AND USE TAX

Section 702. Imposition of tax.

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

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

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

(b) General sourcing rules.--

(1) All sales of products shall be sourced according to this subsection by sellers obligated to collect sales and use tax under this chapter. The sourcing rules described in this subsection apply to sales of tangible personal property, digital goods and all services other than telecommunications services. This subsection only applies to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of a product. This subsection does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions in which the use occurs. A seller's obligation to collect sales tax or use tax under this chapter only occurs if the sale is sourced to this State. Whether sales tax to a sale source to the Commonwealth shall be determined based on the location at which the sale is consummated by delivery or, in the case of a service, where the first use of the service occurs.

(2) Sales, excluding leases or rental, of products shall be sourced as follows:

(i) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(ii) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

(iii) When subparagraphs (i) and (ii) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(iv) When subparagraphs (i), (ii) and (iii) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(v) When subparagraphs (i), (ii), (iii) and (iv) do not apply, including the circumstance where the seller is without sufficient information to apply the previous rules, when the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller or from which the service was provided disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(c) Telecommunications service.--

(1) Notwithstanding any other provisions of this chapter, the tax with respect to telecommunications service within the meaning of "tangible personal property" in section 701 shall be computed at the rate of 7% on the total amount charged to customers for the services, irrespective of whether such charge is based on a flat rate or on a message unit charge.

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

(3) To prevent actual multistate taxation of interstate telecommunications service, any taxpayer, on proof that the taxpayer has paid

a similar tax to another state on the same interstate telecommunications service, shall be allowed a credit against the tax imposed by this section on the same interstate telecommunications service to the extent of the amount of the tax properly due and paid to the other state.

(4) With respect to interstate telecommunications services, only services for interstate telecommunications which originate or are terminated in this Commonwealth and which are billed and charged to a service address in this Commonwealth shall be presumed to have been performed completely in this Commonwealth and shall be subject to tax under this chapter.

(d) Coin-operated vending machines.--Notwithstanding any other provisions of this chapter, the sale or use of food and beverages dispensed by means of coin-operated vending machines shall be taxed at the rate of 7% of the receipts collected from any coin-operated vending machine which dispenses food and beverages.

(e) Prepaid telecommunications.--

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

(2) The sale or use of prepaid telecommunications not evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsection (a) and shall be deemed to occur at the purchaser's billing address.

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

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

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

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

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

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

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

(f) Prebuilt housing.--

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

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

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

(g) Home service providers.--

(1) Notwithstanding any other provisions of this chapter and in accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or use of mobile telecommunications services which are deemed to be provided to a customer by a home service provider under 4 U.S.C. § 117 (relating to sourcing rules) shall be subject to the tax of 7% of the purchase price, which tax shall be collected by the home service provider from the

customer, and shall be paid over to the Commonwealth as provided in this chapter if the customer's place of primary use is located within this Commonwealth, regardless of where the mobile telecommunications services originate, terminate or pass through.

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

Section 703. Computation of tax.

(a) General rule.--The amount of tax imposed by section 702 shall be computed as follows:

(1) If the purchase price is 7¢ or less, no tax shall be collected.

(2) If the purchase price is 8¢ or more but less than 22¢, 1¢ shall be collected.

(3) If the purchase price is 22¢ or more but less than 36¢, 2¢ shall be collected.

(4) If the purchase price is 36¢ or more but less than 50¢, 3¢ shall be collected.

(5) If the purchase price is 50¢ or more but less than 65¢, 4¢ shall be collected.

(6) If the purchase price is 65¢ or more but less than 79¢, 5¢ shall be collected.

(7) If the purchase price is 79¢ or more but less than 93¢, 6¢ shall be collected.

(8) If the purchase price is 93¢ or more but less than \$1.07, seven percent of each dollar of purchase price plus the above tax bracket charges upon any fractional part of a dollar in excess of even dollars shall be collected.

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

SUBCHAPTER C

EXCLUSIONS FROM SALES AND USE TAX

Section 704. Exclusions from tax.

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

(1) The sale at retail or use of tangible personal property (other than motor vehicles, trailers, semi-trailers, motor boats, aircraft or other similar tangible personal property required under either Federal law or laws of this Commonwealth to be registered or licensed) or services sold by or purchased from a person not a vendor in an isolated transaction or sold by or purchased from a person who is a vendor but is not a vendor with respect to the tangible personal property or services sold or purchased in such transaction, provided that inventory and stock in trade so sold or purchased shall not be excluded from the tax by the provisions of this subsection.

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

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

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

(4) (Reserved).

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

(6) (Reserved).

(7) (Reserved).

(8) (Reserved).

(9) (Reserved).

(10) (i) The sale at retail to or use by any charitable organization, volunteer firefighters' organization or nonprofit educational institu-

tion or a religious organization for religious purposes of tangible personal property or services other than pursuant to a construction contract.

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

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

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

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

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

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

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

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

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

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

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

(19) (Reserved).

(20) (Reserved).

(21) (Reserved).

(22) (Reserved).

(23) (Reserved).

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

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

(26) The sale at retail or use of clothing as defined in section 701(ggg) with a purchase price of less than \$50.

(27) (Reserved).

(28) (Reserved).

(29) The sale at retail or use of food and beverages authorized for the Women, Infants and Children Program under section 17 of the

Child Nutrition Act of 1966 (Public Law 89-642, 42 U.S.C. § 1786) as administered by the Department of Health.

(30) Meals and student fees imposed by educational institutions as described in NAICS industry 611110.

(31) (Reserved).

(32) (Reserved).

(33) (Reserved).

(34) (Reserved).

(35) (Reserved).

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

(37) (Reserved).

(38) (Reserved).

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

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

(41) (Reserved).

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

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

(44) The sale at retail or use of firewood. For the purpose of this paragraph, firewood shall mean the product of trees when severed from the land and cut into proper lengths for burning and pellets made from pure wood sawdust if used for fuel for cooking, hot water production or to heat residential dwellings.

(45) (Reserved).

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

(47) (Reserved).

(48) (Reserved).

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

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

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

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

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

(50) (Reserved).

(51) The sale at retail or use of interior office building cleaning services but only as relates to the costs of the supplied employee, which costs are wages, salaries, bonuses and commissions, employment benefits, expense reimbursements and payroll and withholding taxes, to the extent that these costs are specifically itemized or that these costs in aggregate are stated in billings from the vendor or supplying entity.

(52) (Reserved).

(53) (Reserved).

(54) (Reserved).

(55) (Reserved).

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

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

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

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

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

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

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

(58) (Reserved).

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

(60) (Reserved).

(61) (Reserved).

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

(63) (Reserved).

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

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

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

(65) (Reserved).

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

(i) "court" includes:

(A) an appellate court as defined in 42 Pa.C.S. § 102 (relating to definitions);

(B) A court of common pleas as defined in 42 Pa.C.S. § 102;

or

(C) the minor judiciary as defined in 42 Pa.C.S. § 102;

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

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

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

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

(69) The sale at retail or use of aircraft parts, services to aircraft and aircraft components. For purposes of this paragraph, the term "aircraft" shall include a fixed-wing aircraft, powered aircraft, tilt-rotor or tilt-wing aircraft, glider or unmanned aircraft.

(70) (Reserved).

(71) The sale at retail or use of tuition.

(72) But for the services as defined in section 701(w), (x), (y), (z), (aa), (bb), (cc), (jj) and (kk), the sale at retail or use of any of the following business, professional or technical services performed by a business and rendered to another business:

(i) Legal services as defined by NAICS industry 5411.

(ii) Architectural, engineering and related services as defined by NAICS industry 5413.

(iii) Accounting, auditing and bookkeeping services as defined by NAICS industry 5412.

(iv) Specialized design services as defined by NAICS industry 5414.

(v) Advertising, public relations and related services as defined by NAICS industry 5418.

(vi) Services to buildings and dwellings as defined by NAICS industry 5617.

(vii) Scientific, environmental and technical consulting services as defined by NAICS industry 5416.

(viii) Scientific research and development services as defined by NAICS industries 5417 and 5419.

(ix) Information services as defined by NAICS subsector 519.

(x) Administrative services as defined by NAICS industries 5611, 5612, 5613, 5614, 5615 and 5619.

(xi) Custom programming, design and data processing services as defined by NAICS industry 5415.

(xii) Parking lot and garage services as defined by NAICS industry 8129.

(73) The sale at retail or use of legal services relating to family law or criminal law.

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

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

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

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

Section 705. Alternate imposition of tax.

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

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

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

Section 706. Credit against tax.

(a) Tax paid to another state.--

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

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

(b) (Reserved).

SUBCHAPTER D LICENSES

Section 708. Licenses.

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

(b) Criteria for issuance of license.--

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

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

(b.1) Refusal of license.--

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

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

(3) An applicant or licensee aggrieved by the determination of the department may file an appeal pursuant to the provisions for administrative appeals in this chapter, except that the appeal must be filed within 30 days of the date of the notice. In the case of a suspension or revocation which is appealed, the license shall remain valid pending a final outcome of the appeals process.

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

(c) Penalties.--

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

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

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

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

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

SUBCHAPTER E HOTEL OCCUPANCY TAX

Section 709. Definitions.

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

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

for children, hospital or nursing home.

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

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

"Operator." Any person who operates a hotel.

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

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

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

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

"Purchase at retail." Occupancy.

"Purchase price." Rent.

"Purchaser." Occupant.

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

"Services." Occupancy.

"Tangible personal property." Occupancy.

"Use." Occupancy.

"Vendor." Operator.

Section 710. Imposition of tax.

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

Section 711. Seasonal tax returns.

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

SUBCHAPTER F PROCEDURE AND ADMINISTRATION

Section 715. Persons required to make returns.

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

Section 716. Form of returns.

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

Section 717. Time for filing returns.

(a) Quarterly and monthly returns.--

(1) For the year in which this chapter becomes effective, and in each year thereafter, a return shall be filed quarterly by every licensee on or before the 20th day of April, July, October and January for the three months ending the last day of March, June, September and December.

(2) For the year in which this chapter becomes effective, and in each year thereafter, a return shall be filed monthly with respect to each month by every licensee whose actual tax liability for the third calendar quarter of the preceding year equals or exceeds \$600 and is less than \$25,000. Such returns shall be filed on or before the 20th day of the next succeeding month with respect to which the return is made. Any licensee required to file monthly returns under this act shall be relieved from filing quarterly returns.

(3) With respect to every licensee whose actual tax liability for the third calendar quarter of the preceding year equals or exceeds \$25,000 and is less than \$100,000, the licensee shall, on or before the

20th day of each month, file a single return consisting of all of the following:

(i) Either of the following:

(A) An amount equal to 50% of the licensee's actual tax liability for the same month in the preceding calendar year if the licensee was a monthly filer or, if the licensee was a quarterly or semiannual filer, 50% of the licensee's average actual tax liability for that tax period in the preceding calendar year. The average actual tax liability shall be the actual tax liability for the tax period divided by the number of months in that tax period. For licensees that were not in business during the same month in the preceding calendar year or were in business for only a portion of that month, the amount shall be 50% of the average actual tax liability for each tax period the licensee has been in business. If the licensee is filing a tax liability for the first time with no preceding tax periods, the amount shall be zero.

(B) An amount equal to or greater than 50% of the licensee's actual tax liability for the same month.

(ii) An amount equal to the taxes due for the preceding month, less any amounts paid in the preceding month as required by subparagraph (i).

(4) With respect to each month by every licensee whose actual tax liability for the third calendar quarter of the preceding year equals or exceeds \$100,000, the licensee shall, on or before the 20th day of each month, file a single return consisting of the amounts under paragraph (3)(i)(A) and (ii).

(5) The amount due under paragraph (3)(i) or (4) shall be due the same day as the remainder of the preceding month's tax.

(6) The department shall determine whether the amounts reported under paragraph (3) or (4) shall be remitted as one combined payment or as two separate payments.

(7) The department may require the filing of the returns and the payments for these types of filers by electronic means approved by the department.

(8) Any licensee filing returns under paragraph (3) or (4) shall be relieved of filing quarterly returns.

(9) If a licensee required to remit payments under paragraph (3) or (4) fails to make a timely payment or makes a payment which is less than the required amount, the department may, in addition to any applicable penalties, impose an additional penalty equal to 5% of the amount due under paragraph (3) or (4) which was not timely paid. The penalty under this paragraph shall be determined when the tax return is filed for the tax period.

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

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

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

Section 718. Extension of time for filing returns.

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

Section 719. Place for filing returns.

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

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

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

prior to the final day on which the payment is to be received.

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

Section 721. Payment of tax.

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

Section 722. Time of payment.

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

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

(c) Other payments.--Any person other than a licensee liable to pay any tax under this chapter shall remit the tax at the time of filing the return required by this chapter.

Section 723. Other times for payment.

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

Section 724. Place for payment.

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

Section 725. Tax held in trust for Commonwealth.

(a) General rule.--All taxes collected by any person from purchasers in accordance with this chapter and all taxes collected by any person from purchasers under color of this chapter which have not been properly refunded by the person to the purchaser shall constitute a trust fund for the Commonwealth, and such trust shall be enforceable against such person, the person's representatives and any person, other than a purchaser to whom a refund has been made properly, receiving any part of the fund without consideration, or knowing that the taxpayer is committing a breach of trust.

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

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

Section 726. (Reserved).

Section 727. Discount.

(a) General rule.--Subject to the provisions of subsection (b), if a return is filed by a licensee and the tax shown to be due thereon less any discount is paid all within the time prescribed, the licensee shall be entitled to credit and apply against the tax payable by the licensee a discount of 1% of the amount of the tax collected by the licensee, as compensation for the expense of collecting and remitting the tax due by the licensee and as consideration of the prompt payment.

(b) Types of periodic filers.--For returns filed on or after the effective date of this section, the discount under subsection (a) shall be limited to the following:

(1) For a monthly filer, \$25 per return.

(2) For a quarterly filer, \$75 per return.

(3) For a semiannual filer, \$150 per return.

Section 728. (Reserved).

Section 729. (Reserved).

Section 730. Assessment.

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

Section 731. Mode and time of assessment.

(a) Duty to examine.--

(1) Within a reasonable time after any return is filed, the department shall examine it and, if the return shows a greater tax due or collected than the amount of tax remitted with the return, the depart-

ment shall issue an assessment for the difference, together with an addition of 3% of the difference, which shall be paid to the department within ten days after a notice of the assessment has been mailed to the taxpayer.

(2) If such assessment is not paid within ten days, there shall be added and paid to the department an additional 3% of the difference for each month during which the assessment remains unpaid. The total of all additions shall not exceed 18% of the difference shown on the assessment.

(b) Understated tax on returns.--

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

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

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

(c) Estimated assessments.--

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

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

(d) Studies.--

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

(2) Any assessment based on such rates shall be prima facie correct, except that the rate shall not be considered where a taxpayer establishes the rate is based on a sample inapplicable to the taxpayer.

Section 732. Reassessment.
Any taxpayer against whom an assessment is made may petition the department for a reassessment under Article XXVII of the Tax Reform Code of 1971.

Section 733. Assessment to recover erroneous refunds.

The department may, within two years of the granting of any refund or credit, or within the period in which an assessment could have been filed by the department with respect to the transaction pertaining to which the refund was granted, whichever period shall last occur, file an assessment to recover any refund or part thereof or credit or part thereof which was erroneously made or allowed.

Section 734. (Reserved).

Section 735. (Reserved).

Section 736. Burden of proof.

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

Section 737. Collection of tax.

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

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

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

(2) (i) Every person not otherwise required to collect tax that delivers tangible personal property to a location within this Commonwealth and that unpacks, positions, places or assembles the tangible personal property shall collect the tax from the purchaser at the time of delivery and shall remit the tax to the department if the person delivering the tangible personal property is responsible for collecting any portion of the purchase price of the tangible personal property delivered and the purchaser has not provided the person with proof that the tax imposed by this chapter has been or will be collected by the seller or that the purchaser provided the seller with a valid exemption certificate.

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

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

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

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

(2) Where the tangible personal property or service is of a type which is never subject to the tax imposed or where the sale or lease of tangible personal property is in interstate commerce, the certificate need not be furnished.

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

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

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

(6) An exemption certificate:

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

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

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

(iv) which, in the case of any purchase costing \$200 or more, is accompanied by a sworn declaration on a form to be provided by the department of an intended usage of the property or service which would render it nontaxable,

shall be presumed to be taken in good faith and the burden of proving otherwise shall be on the department.

(d) Direct payment permits.--

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

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

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

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

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

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

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

(2) The department may cancel or suspend any record of cer-

tificate of title or registration of a motor vehicle, trailer or semitrailer when the check received in payment of the tax on the vehicle is not paid on demand.

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

Section 739. Precollection of tax.

(a) Authorization.--

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

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

(b) No license required.--In any case in which a vendor has been authorized to prepay the tax to the person from whom the vendor purchased the tangible personal property for resale, the vendor authorized to prepay the tax may, under the regulations of the department, be relieved from the duty to secure a license if the duty arises only by reason of the vendor's sale of the tangible personal property with respect to which the vendor is, under authorization of the department, to prepay the tax.

(c) Reimbursement.--

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

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

Section 740. Bulk and auction sales.

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

Section 741. (Reserved).

Section 742. Lien for taxes.

(a) Nature and effect of lien.--

(1) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount, including any interest, addition or penalty, together with any costs that may accrue in addition, shall be a lien in favor of the Commonwealth on the property, both real and personal, of the person but only after same has been entered and docketed of record by the prothonotary of the county where the property is situated.

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

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

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

(b) Priority status.--

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

(2) In the case of a judicial sale of property, subject to a lien imposed under this section, on a lien or claim over which the lien imposed under this section has priority, the sale shall discharge the lien imposed under this section to the extent only that the proceeds are applied to its payment, and the lien shall continue in full force and effect as to the balance remaining unpaid.

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

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

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

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

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

(d) Priority payment from distribution.--

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

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

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

Section 743. Suit for taxes.

(a) General rule.--At any time within three years after any tax or any amount of tax shall be finally due and payable, the department may commence an action in the courts of this Commonwealth, of any state or of the United States, in the name of the Commonwealth, to collect the amount of tax due together with additions, interest, penalties and costs in the manner provided at law or in equity for the collection of ordinary debts.

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

(c) Construction.--The provisions of this section are in addition to any process, remedy or procedure for the collection of taxes provided by this chapter or by the laws of this Commonwealth, and this section is neither limited by nor intended to limit any such process, remedy or procedure.

Section 744. Tax suit comity.

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

Section 745. Service.

(a) General rule.--Any person who maintains a place of business in this Commonwealth is deemed to have appointed the Secretary of the Commonwealth as the person's agent for the acceptance of service of process or notice in any proceedings for the enforcement of the civil

provisions of this chapter, and any service made upon the Secretary of the Commonwealth as agent shall be of the same legal force and validity as if the service had been personally made on the person.

(b) Substitute service.--Where service cannot be made on the person in the manner provided by other laws of this Commonwealth relating to service of process, service may be made on the Secretary of the Commonwealth and, in such case, a copy of the process or notice shall also be personally served on any agent or representative of the person who may be found within this Commonwealth, or where no such agent or representative may be found a copy of the process or notice shall be sent by registered mail to the person at the last known address of the person's principal place of business, home office or residence.

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

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

Section 747. Prepayment of tax.

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

(b) Subsequent collection of tax.--If the purchase price is thereafter collected, in whole or in part, the amount collected shall be first applied to the payment of the entire tax portion of the bill, and shall be remitted to the department by the vendor with the first return filed after such collection.

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

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

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

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

(2) The purchase price is written off, either in whole or in part, as a debt on the books and records of the vendor or an affiliate of the vendor.

(3) The bad debt has been deducted for Federal income tax purposes under section 166 of the Internal Revenue Code of 1986.

(a.1) Time for filing petition.--A petition for refund, which is authorized by this section, must be filed with the department within the time limitations under section 3003.1(a).

(a.2) Private-label credit cards.--In the case of private-label credit card accounts not qualifying under subsection (a), a vendor or lender that makes an election pursuant to subsection (a.3) shall be entitled to file a petition for refund of sales tax that the vendor has previously reported and paid to the department, if all of the following conditions are met:

(1) No refund was previously allowed with respect to the portion of the account written off as a bad debt.

(2) The account has been found worthless and written off, either in whole or in part, as bad debt on the books and records of the lender or an affiliate of the lender.

(3) The account has been deducted for Federal income tax purposes under section 166 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 166) by the lender or an affiliate of the lender.

(a.3) Joint election.--In order to be eligible for a refund under subsection (a.2), the lender and the vendor must execute and file with the department a joint election, signed by both parties, designating which party is entitled to claim the refund. This election may not be revoked unless a written notice is signed by the party that signed the election being revoked and is filed with the department.

(b) Limitation.--

(1) The refund authorized by this section shall be limited to

the sales tax paid to the department that is attributed to the bad debt, less any discount under section 727.

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

(3) Payments made on any transaction which includes both taxable and nontaxable components shall be allocated proportionally between the taxable and nontaxable components.

(c) Assignment.--A vendor or lender may assign its right to petition and receive a refund of sales tax attributed to a bad debt to an affiliate.

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

(e) Documentation.--Documentation requirements are as follows:

(1) Any person claiming a refund under this section shall, on request, make available adequate books, records or other documentation supporting the claimed refund, including:

(i) Date of original sale, name and Pennsylvania sales tax license number of the retailer.

(ii) Name and address of purchaser.

(iii) Amount that the purchaser paid or agreed to pay.

(iv) Taxable and nontaxable charges.

(v) Amount on which the retailer reported and paid sales tax.

(vi) All payments or other credits applied to the account of the purchaser.

(vii) Evidence that the uncollected amount has been designated as a bad debt in the books and records of the vendor or lender, as appropriate, and that the amount has been claimed as a bad debt deduction for Federal income tax purposes.

(viii) The county in which any local sales tax was incurred.

(ix) The unpaid portion of the sales price.

(x) A certification, under penalty of perjury, that no person has collected money on the bad debt for which the refund is claimed.

(xi) Any other information required by the department.

(2) A person claiming a refund under this section may provide alternative forms of documentation acceptable to the department if appropriate in light of the volume and character of uncollectible accounts. This includes the following:

(i) If a vendor remits sales or use tax to the Commonwealth and to another state, the entity claiming a refund under this section may use an apportionment method to substantiate the amount of Pennsylvania tax included in the bad debts to which the refund applies.

(ii) The apportionment method must use the vendor's Pennsylvania and non-Pennsylvania sales, the vendor's taxable and nontaxable sales and the amount of tax the vendor remitted to Pennsylvania.

(f) Subsequent collection.--

(1) If the purchase price that is attributed to a prior bad debt refund is collected in whole or in part by the vendor or lender, or an affiliate of the vendor or lender, the entity claiming the refund shall remit the proportional tax to the department with the first return filed after the collection. If the entity is not required to file periodic returns, the entity shall remit the proportional tax to the department with another return pursuant to section 717(c).

(2) Any consideration received for the assignment, sale or other transfer of a bad debt with respect to which a refund has been granted shall be deemed to be a collection of a prior bad debt. This paragraph shall not apply to a transfer to an entity that is part of the same affiliated group, as defined by section 1504 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504).

(3) A person that collects, in whole or in part, the purchase price attributed to a prior bad debt refund is required to maintain adequate books, records or other documentation to allow the department to determine whether the purchase price attributed to a prior bad debt refund has been collected. Information under this paragraph includes the pertinent facts required by subsection (e).

(4) If it is determined by the department that a prior bad debt has been collected, in whole or in part, and the proportional tax has not been properly reported and paid to the department, the person that claimed the refund on the transaction shall report and pay the proportional tax to the department plus applicable interest and penalty under this chapter.

(g) Interest prohibited.--Notwithstanding the provisions of section 806.1 of The Fiscal Code, no interest shall be paid by the Commonwealth on refunds of sales tax attributed to bad debt under this section.

(h) Administration.--

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

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

(3) This section shall provide the exclusive procedure for claiming a refund or credit of sales tax attributed to uncollected purchase price or bad debt.

(i) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Affiliate." A person that is:

(1) An affiliated entity under section 1504(a)(1) of the Internal Revenue Code of 1986.

(2) A person described in paragraph (1) or (2) of the definition of "lender" that would be an affiliated entity, under section 1504 of the Internal Revenue Code of 1986, of a vendor but for the fact the person is not a corporation, an assignee or another transferee of a person described in paragraph (1) or (2) of the definition of "lender".

"Lender." Any of the following:

(1) A person that owns or has owned a private-label credit card account purchased directly from a vendor that reported the tax under this chapter.

(2) A person that owns or has owned a private-label credit card account pursuant to a contract directly with the vendor that reported the tax under this chapter.

(3) A person that is:

(i) an affiliate of a person described in paragraph (1) or (2); or
(ii) an assignee or other transferee of a person described in paragraph (1) or (2).

"Private-label credit card." Any charge card, credit card or other instrument serving similar purpose which carries, refers to or is branded with the name or logo of a vendor and which can be used for purchases from the vendor. The term does not include a card or instrument which may also be used to make purchases from persons other than the vendor whose name or logo appears on the card or instrument or that vendor's affiliates. Nothing in this definition shall be construed to authorize a refund with respect to bad debts attributable to sales by unrelated persons referred to in this definition.

Section 748. Registration of transient vendors.

(a) General rule.--Prior to conducting business or otherwise commencing operations in this Commonwealth, a transient vendor shall register with the department. The application for registration shall be in such form and contain such information as the department, by regulation, shall prescribe and shall set forth truthfully and accurately the information desired by the department. This registration shall be renewed and updated annually.

(b) Certificate to be issued.--After registration and the posting of the bond required by section 748.1, the department shall issue to the transient vendor a certificate valid for one year. On renewal of registration, the department shall issue a new certificate valid for one year, if the department is satisfied that the transient vendor has complied with the provisions of this chapter.

(c) Possession and exhibition of certificate.--The transient vendor shall possess the certificate at all times when conducting business within this Commonwealth and shall exhibit the certificate upon demand by authorized employees of the department or any law enforcement officer.

(d) Contents of certificate.--The certificate issued by the department shall state that the transient vendor named in the certificate has registered with the department and shall provide notice to the transient vendor that:

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

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

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

Section 748.1. Bond.

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

(b) Voluntary suspension of certificate.--A transient vendor may file a request for voluntary suspension of certificate with the department. If the department is satisfied that the provisions of this chapter have been complied with and has possession of the transient vendor's certificate, it shall return the bond posted to the transient vendor. Section 748.2. Notification to department.

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

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

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

- (1) fails to notify the department as required by subsection (a);
- (2) provides the department with false information regarding the conduct of business in this Commonwealth;
- (3) fails to collect sales tax on all tangible personal property or services sold subject to the sales tax; or
- (4) fails to file with the department a tax return as required by section 717.

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

Section 748.3. Seizure of property.

(a) General rule.--If a transient vendor conducting business in this Commonwealth fails to exhibit a valid certificate on demand by authorized employees of the department, those authorized employees shall seize, without warrant, the tangible personal property and the automobile, truck or other means of transportation used to transport or carry that property. All property seized shall be deemed contraband and shall be subject to immediate forfeiture proceedings instituted by the department pursuant to procedures adopted by regulation, except as otherwise provided by this section.

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

- (1) presentation of a valid certificate to authorized employees of the department; or
- (2) registration by the transient vendor with the department and the posting of a bond in the amount of \$500, either immediately or within 15 days after the property is seized.

Section 748.4. Fines.
Any transient vendor conducting business in this Commonwealth while its certificate is suspended or revoked, as provided by sections 748.1(b) and 748.2(c), commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine of not more than \$2,500 for each offense.

Section 748.5. Transient vendors subject to chapter.

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

Section 748.6. Promoters.

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

(b) License.--

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

(2) If application for a license under this section has been timely filed and if the license has not been received by the promoter

prior to the opening of the show, the authorization contained in this section with respect to the obtaining of a promoter's license shall be deemed to have been complied with, unless or until the promoter receives notice from the department denying the application for a promoter's license.

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

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

(e) Penalties.--

(1) Any licensed promoter who:

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

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

(iii) knowingly maintains false records or fails to comply with any provision contained in this section or any regulation promulgated by the department pertaining to shows,

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

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

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

Section 749. (Reserved).

Section 750. (Reserved).

Section 751. (Reserved).

Section 752. Refunds.

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

(b) Exception.--No refund shall be made under this section with respect to any payment made by reason of an assessment with respect to which a taxpayer has filed a petition for reassessment pursuant to section 2702 of the Tax Reform Code of 1971 to the extent that the petition has been determined adversely to the taxpayer by a decision which is no longer subject to further review or appeal.

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

Section 753. Refund petition.

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

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

Section 754. (Reserved).

Section 755. (Reserved).

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

(a) General rule.--Any party to a transaction who has paid tax by

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

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

Section 757. (Reserved).

Section 758. Limitation on assessment and collection.

The amount of the tax imposed by this chapter shall be assessed within three years after the date when the return provided for by section 717(a) or (c) is filed or the end of the year in which the tax liability arises, whichever occurs later. Any assessment may be made at any time during the period notwithstanding that the department may have made one or more previous assessments against the taxpayer for the year in question, or for any part of the year. In any case, no credit shall be given for any penalty previously assessed or paid.

Section 759. Failure to file return.

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

Section 760. False or fraudulent return.

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

Section 761. Extension of limitation period.

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

Section 762. (Reserved).

Section 763. (Reserved).

Section 764. (Reserved).

Section 765. (Reserved).

Section 766. Additions to tax.

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

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

Section 767. Penalties.

(a) General rule.--The penalties, additions, interest and liabilities provided by this chapter shall be paid on notice and demand by the department, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this chapter to tax imposed by this chapter shall be deemed also to refer to the penalties, additions, interest and liabilities provided by this chapter.

(b) Monetary penalty.--Any person who willfully attempts, in any manner, to evade or defeat the tax imposed by this chapter, or the payment thereof, or to assist any other person to evade or defeat the tax imposed by this chapter, or the payment thereof, or to receive a refund

improperly shall, in addition to other penalties provided by law, be liable for a penalty equal to one-half of the total amount of the tax evaded.

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

Section 768. Criminal offenses.

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

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

(1) advertises or holds out or states to the public or to any purchaser or user, directly or indirectly, that the tax or any part imposed by this chapter will be absorbed by the person, or that it will not be added to the purchase price of the tangible personal property or services described in section 701(k)(2), (3), (4), (11), (12), (13), (14), (15), (16), (17), (18) and (20) sold or, if added, that the tax or any part will be refunded, other than when the person refunds the purchase price because of the property being returned to the vendor;

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

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

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

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

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

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

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

(c) Exceptions.--

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

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

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

Section 769. Abatement of additions or penalties.

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

Section 770. Rules and regulations.

(a) General rule.--The department shall enforce the provisions of this chapter and shall prescribe, adopt, promulgate and enforce rules and regulations not inconsistent with the provisions of this chapter, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, and the collection of taxes, penalties and interest imposed by this chapter. The department may prescribe the

extent, if any, to which any of the rules and regulations shall be applied without retroactive effect.

(b) Determination of purchase price.--

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

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

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

Section 771. Keeping of records.

(a) Persons liable for taxes.--Every person liable for any tax imposed by this chapter, or for the collection of the tax, shall keep the records, render such statements, make the returns and comply with the rules and regulations as the department may, from time to time, prescribe regarding matters pertinent to the person's business. Whenever in the judgment of the department it is necessary, it may require any person, by notice served on the person, or by regulations, to make the returns, render the statements or keep the records as the department deems sufficient to show whether the person is liable to pay or collect tax under this chapter.

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

(c) Nonresidents.--

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

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

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

(d) Retail dealers.--

(1) Any person doing business as a retail dealer who at the same time is engaged in another business which does not involve the making of sales taxable under this chapter shall keep separate books and records of the person's businesses so as to show the sales taxable under this chapter separately from the sales not taxable under this chapter.

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

(e) Segregation of taxes required.--

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

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

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

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

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

Section 771.1. Reports and records of promoters.

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

Section 772. Examinations.

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

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

(c) Other powers of department.--

(1) The department is further authorized to examine any person, under oath, concerning taxable sales or use by any taxpayer or concerning any other matter relating to the enforcement or administration of this chapter, and to this end may compel the production of books, papers and records and the attendance of all persons whether as parties or witnesses whom it believes to have knowledge of such matters.

(2) The procedure for such hearings or examinations shall be the same as that provided by The Fiscal Code relating to inquisitorial powers of fiscal officers.

Section 773. Records and examinations of delivery agents.

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

Section 774. Unauthorized disclosure.

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

Section 775. Cooperation with other governments.

Notwithstanding the provisions of section 774, the department may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any state, or the authorized representative of either such officer, to inspect the tax returns of any taxpayer, or may furnish to the officer or to the officer's authorized representative an abstract of the return of any taxpayer, or supply the officer or the authorized representative with information concerning any item contained in any return or disclosed by the report of any examination or investigation of the return of any taxpayer. This permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of the Commonwealth charged with the administration of this chapter.

Section 776. Interstate compacts.

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

(b) Other powers.--The Governor, or the Governor's authorized

representative, may join with the authorities of other states to conduct joint investigations, to exchange information, hold joint hearings and enter into compacts or interstate agreements with such other states to accomplish uniform reciprocal use tax collections between those states who are parties to any compact or interstate agreement and the Commonwealth.

Section 777. Bonds.

(a) Procedure.--

(1) Whenever the department, in its discretion, deems it necessary to protect the revenues to be obtained under the provisions of this chapter, it may require any nonresident natural person or any foreign corporation, association, fiduciary, partnership or other entity, not authorized to do in this Commonwealth or not having an established place of business in this Commonwealth and subject to the tax imposed by section 702, to file a bond issued by a surety company authorized to do business in this Commonwealth and approved by the Insurance Commissioner as to solvency and responsibility, in such amounts as it may fix, to secure the payment of any tax or penalties due, or which may become due, from a natural person or corporation.

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

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

(4) (i) The department may, for a period of three years, require a bond of any person who has on three or more occasions within a 12-month period either filed a return or made payment to the department more than 30 days late.

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

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

(b) Alternative security.--

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

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

(c) Lien may be filed.--

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

(2) All funds received on execution of the judgment on the lien shall be refunded to the taxpayer with 3% interest should a final determination be made that the taxpayer does not owe any payment to the department.

Section 778. Remote sales reports.

(a) Duty to submit.--Within 90 days of the publication of the notice under subsection (b), the Independent Fiscal Office, in conjunction with the department, shall submit a detailed report to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Commit-

tee of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives outlining the plans concerning the implementation of the legislation referenced in subsection (b) or other substantially similar Federal legislation, which would grant the Commonwealth the authority to impose and collect the tax under this chapter due on sales from remote sellers. The report shall include all of the following:

(1) The amount of State funds necessary to implement the legislation referenced in subsection (b) or other substantially similar legislation. The amount needed shall be itemized and all costs, including personnel, office expenses and other related costs, shall be included.

(2) The amount of State tax revenue expected to result from the implementation of the legislation referenced in subsection (b) or other substantially similar legislation for the fiscal year and for five fiscal years thereafter.

(3) The source of funds which will be utilized to pay for the legislation referenced in subsection (b) or other substantially similar legislation implementation program.

(4) The legal and practical issues concerning the propriety of collecting and enforcing the tax imposed under this chapter from remote sellers.

(5) The number of other states which have a similar law in effect and the success or deficiencies of the law.

(6) Proposed draft legislation concerning the implementation of the legislation referenced in subsection (b) or other substantially similar legislation.

(7) A detailed timetable on when separate tasks must be completed for full implementation on an estimated start date.

(b) Notice in the Pennsylvania Bulletin.--The secretary shall publish notice in the Pennsylvania Bulletin that Federal legislation relating to remote sellers has been enacted.

SUBCHAPTER G FUNDING PROVISIONS

Section 780. (Reserved).

Section 781. Appropriation for refunds.

So much of the proceeds of the tax imposed by this chapter as shall be necessary for the payment of refunds, enforcement or administration under this chapter is hereby appropriated for those purposes.

Section 781.1. Construction.

To the extent that the language of this chapter is identical to that of equivalent provisions in the former act of March 6, 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for Education, or Article II of the Tax Reform Code of 1971, that language shall be deemed a reenactment of such identical provisions.

Section 782. Transfers to Education Stabilization Fund.

(a) Deposit of sales and use tax and hotel occupancy tax collected.--The secretary shall deposit into the Education Stabilization Fund revenues received on or after January 1, 2016, regardless of the transaction date, that equal the portion of the tax imposed by this chapter as follows:

(1) Except as otherwise provided in section 2301 of the Tax Reform Code of 1971 providing for the establishment of the Public Transportation Assistance Fund, 39.6% of the tax collected on the sales at retail and use of tangible personal property and services as provided in Subchapter B.

(2) One-seventh of the hotel occupancy tax collected under Subchapter E.

(b) (Reserved).

Section 783. Transfers to Public Transportation Assistance Fund.

(a) General rule.--All revenues received on or after July 1, 1992, from the imposition of tax on periodicals shall be transferred to the Public Transportation Assistance Fund according to the formula set forth in subsection (b).

(b) Transfer.--Within 30 days of the close of any calendar month, 0.596% of the taxes received in the previous month under this chapter, less any amounts collected in that previous calendar month under former 74 Pa.C.S. § 1314(d) (relating to Public Assistance Transportation Fund), shall be transferred to the Public Transportation Assistance Fund.

(c) Deposit.--In fiscal year 1991-1992, the Secretary of Revenue shall ensure that \$10,000,000 is deposited into the Public Assistance Transportation Fund from the combination of revenues received under former 74 Pa.C.S. § 1314(d) and transfers of periodical taxes received under this chapter.

(d) Revenue.--Commencing February 20, 2016, and notwithstanding the provisions of 74 Pa.C.S. § 1506(c)(1) (relating to fund) to the contrary, the revenues deposited into the Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)(1) shall be 2.769% of the amount collected under this chapter. The amounts required to be deposited into the Public Transportation Trust Fund under this subsection are estimated to be equivalent to the revenue that would be deposited into the Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)(1) if the amendments to section 702 were not enacted.

CHAPTER 9 (RESERVED) CHAPTER 11

LIMIT ON SCHOOL DISTRICT TAXATION AND EXPIRATION OF DEBT AUTHORITY

Section 1101. Definitions.

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

"School district debt." All debt which a school district is obligated to pay.

Section 1102. Coordination of school district fiscal years.

(a) General rule.--By July 1, 2016, a school district which operates under a fiscal year other than the period beginning July 1 of each calendar year and ending June 30 of the calendar year next succeeding shall adopt a fiscal year which is the period beginning July 1 of each calendar year and ending June 30 of the calendar year next succeeding.

(b) Duties of department.--The Department of Education shall provide technical assistance and guidance to school districts subject to assist school districts adopting a different fiscal year under subsection (a).

Section 1103. Transition period.

Beginning with the effective date of this section and ending July 1, 2016, a school district which levies a tax on real property may not increase the rate of tax on real property above the rate levied as of the effective date of this section.

Section 1104. School district debt and budgeting.

(a) General rule.--Beginning on the effective date of this section, a school district may not incur any additional school district debt except debt which is authorized by a referendum under Chapter 3.

(b) Certification.--By April 1, 2016, and by April 1 of each year after, a school district shall certify and report to the Department of Education all of the following:

- (1) The amount of all outstanding school district debt.
- (2) The repayment status of all outstanding school district debt.
- (3) The repayment terms of all outstanding school district debt.
- (4) The amount of annual debt service which must be paid by the school district on the outstanding school district debt.
- (5) Any other information requested by the Department of Education.

(c) Confirmation of information.--The Department of Education may examine the books and records of a school district in order to confirm the data submitted under subsection (b).

(d) Department responsibilities.--By July 1, 2016, and by January 1 each year after, the Department of Education shall do all of the following:

- (1) Certify to the State Treasurer and the Office of the Budget the amount of annual debt service payments necessary for each school district to continue to repay its existing outstanding school district debt.
- (2) Notify each school district of the amount of its annual debt service payments that the Department of Education has certified as necessary for the school district to continue to repay its existing outstanding school district debt.

(e) School district responsibilities.--A school district shall do all of the following:

- (1) Adopt a preliminary budget proposal under section 311 of the Taxpayer Relief Act which reflects proposed tax rates on real property that complies with section 1105.
- (2) Adopt an annual budget under section 312 of the Taxpayer Relief Act which reflects proposed tax rates on real property that complies with section 1105.

Section 1105. Expiration of certain authority to levy, assess and collect real property taxes.

Except as necessary to service outstanding school district debt, the authority of a school district to levy, assess and collect a tax on real property shall expire July 1, 2016.

CHAPTER 13
FUNDING PROVISIONS

Section 1301. Definitions.

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

"Base revenue." The money a school district receives from school property taxes and the State property tax reduction allocation received under section 505 of act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, during fiscal year 2015-2016 less the amount certified by the department under section 1104(a).

"Cost of living factor." The lesser of:

(1) the percentage increase in the Statewide average weekly wage, as defined in 53 Pa.C.S. § 8401 (relating to definitions), from the previous calendar year; or

(2) the average of the percentage increase in sales and use tax collected under section 702 and the tax upon each dollar income collected under section 401(b)(1) and the percentage increase of the hotel occupancy tax collected under section 710 from the previous calendar year.

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

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

Section 1302. Education Stabilization Fund.

(a) Establishment.--The Education Stabilization Fund is established as a separate fund in the State Treasury.

(b) Use.--The department shall use the fund to make disbursements under section 1303.

(c) Continuing appropriation.--The money of the fund is hereby continuously appropriated to the department as provided in this act. This appropriation shall not lapse at the end of any fiscal year.

Section 1302.1. Sources and transfers.

(a) Deposit.--The following shall be deposited into the fund:

(1) Money remaining in the Property Tax Relief Fund following utilization of funds to provide tax relief in cities of the first class under Chapters 5 and 7 of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, and for property tax and rent rebates under Chapter 14.

(2) Money collected by the department under section 401.

(3) Money collected by the department under Chapter 7.

(4) Appropriations.

(5) Return on money in the fund.

(b) Transfer from the fund.--

(1) No later than June 30, 2017, and each June 30 thereafter, an amount equal to the refund reimbursement factor multiplied by the amount of refunds issued under Article III of the Tax Reform Code of 1971 for tax years in which the tax imposed under Chapter 4 is applicable, shall be transferred from the Education Stabilization Fund to the General Fund.

(2) For the purpose of this subsection, "refund reimbursement factor" means a fraction equal to the rate of tax imposed under Chapter 4 divided by the sum of the rate of tax imposed under Chapter 4 plus the rate of tax imposed under Article III of the Tax Reform Code of 1971. Section 1303. Standard disbursements to school districts from Education Stabilization Fund.

(a) General rule.--In fiscal year 2016-2017, the department shall disburse to each school district an amount equal to the sum of the following:

(1) the school district's base revenues, plus

(2) the school district's base revenue multiplied by the cost-of-living factor.

(b) Annual adjustment.--In fiscal year 2017-2018 and each fiscal year thereafter, the department shall disburse to a school district an amount equal to the sum of the following:

(1) The amount received by the school district in the prior fiscal year under this section.

(2) The amount received by the school district in the prior fiscal year under this section multiplied by the cost-of-living factor.

(c) Distributions.--Disbursements under subsections (a) and (b) shall be made at a time and in a manner determined by the Department

of Education in consultation with the Department of Revenue.

CHAPTER 14
SENIOR CITIZENS PROPERTY TAX AND
RENT REBATE ASSISTANCE

Section 1401. Scope of chapter.

This chapter provides senior citizens with assistance in the form of property tax and rent rebates.

Section 1402. (Reserved).

Section 1403. Definitions.

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

"Board." The Board of Finance and Revenue of the Commonwealth.

"Claimant." A person who files a claim for property tax rebate or rent rebate in lieu of property taxes and:

(1) was at least 65 years of age or whose spouse, if a member of the household, was at least 65 years of age during a calendar year in which real property taxes or rent were due and payable;

(2) was a widow or widower and was at least 50 years of age during a calendar year or part thereof in which real property taxes or rent were due and payable; or

(3) was a permanently disabled person 18 years of age or older during a calendar year or part thereof in which the real property taxes or rent were due and payable.

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

"Homestead." A dwelling, whether owned or rented, and so much of the land surrounding it, as is reasonably necessary for the use of the dwelling as a home, occupied by a claimant. The term includes, but is not limited to:

(1) Premises occupied by reason of ownership or lease in a cooperative housing corporation.

(2) Mobile homes which are assessed as realty for local property tax purposes and the land, if owned or rented by the claimant, upon which the mobile home is situated, and other similar living accommodations.

(3) A part of a multidwelling or multipurpose building and a part of the land upon which it is built.

(4) Premises occupied by reason of the claimant's ownership or rental of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, if the claimant is required to pay a pro rata share of the property taxes levied against the association's land.

(5) Premises occupied by a claimant if the claimant is required by law to pay a property tax by reason of the claimant's ownership or rental, including a possessory interest, in the dwelling, the land or both. An owner includes a person in possession under a contract of sale, deed of trust, life estate, joint tenancy or tenancy in common or by reason of statutes of descent and distribution.

"Household income." All income received by a claimant and the claimant's spouse while residing in the homestead during the calendar year for which a rebate is claimed.

"Income." All income from whatever source derived, including, but not limited to:

(1) Salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief.

(2) The gross amount of any pensions or annuities, including railroad retirement benefits for calendar years prior to 1999 and 50% of railroad retirement benefits for calendar years 1999 and thereafter.

(3) (i) All benefits received under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), except Medicare benefits, for calendar years prior to 1999, and 50% of all benefits received under the Social Security Act, except Medicare benefits, for calendar years 1999 and thereafter.

(ii) Notwithstanding any other provision of this act to the contrary, persons who, as of December 31, 2012, are eligible for the property tax or rent rebate shall remain eligible if the household income limit is exceeded due solely to a Social Security cost-of-living adjustment.

(iii) Eligibility in the property tax and rent rebate program pursuant to subparagraph (ii) shall expire on December 31, 2016.

(4) All benefits received under State unemployment insurance laws.

(5) All interest received from the Federal or any state govern-

ment or any instrumentality or political subdivision thereof.

(6) Realized capital gains and rentals.

(7) Workers' compensation.

(8) The gross amount of loss of time insurance benefits, life insurance benefits and proceeds, except the first \$5,000 of the total of death benefit payments.

(9) Gifts of cash or property, other than transfers by gift between members of a household, in excess of a total value of \$300.

The term does not include surplus food or other relief in kind supplied by a governmental agency, property tax or rent rebate, inflation dividend dividend, Federal veterans' disability payments or State veterans' benefit.

"Permanently disabled person." A person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to continue indefinitely, except as provided in section 1404(b)(3) and (c).

"Real property taxes." All taxes on a homestead, exclusive of municipal assessments, delinquent charges and interest, due and payable during a calendar year.

"Rent rebate in lieu of property taxes." Twenty percent of the gross amount actually paid in cash or its equivalent in any calendar year to a landlord in connection with the occupancy of a homestead by a claimant, irrespective of whether such amount constitutes payment solely for the right of occupancy or otherwise.

"Secretary." The Secretary of Revenue of the Commonwealth.

"State veterans' benefits." Service-connected compensation or benefits of any kind provided to a veteran or an unmarried surviving spouse of a veteran by a Commonwealth agency or authorized under the laws of this Commonwealth.

"Taxpayer Relief Act." The act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

"Widow" or "widower." The surviving wife or the surviving husband, as the case may be, of a deceased individual and who has not remarried except as provided in section 1404(b)(3) and (c).
Section 1404. Property tax; and rent rebate.

(a) Schedule of rebates.--

(1) The amount of any claim for property tax rebate or rent rebate in lieu of property taxes for real property taxes or rent due and payable during calendar years 1985 through 2005 shall be determined in accordance with the following schedule:

Household Income	Percentage of Real Property Taxes or Rent Rebate in Lieu of Property Taxes Allowed as Rebate
\$ 0 - \$ 4,999	100%
5,000 - 5,499	100
5,500 - 5,999	90
6,000 - 6,499	80
6,500 - 6,999	70
7,000 - 7,499	60
7,500 - 7,999	50
8,000 - 8,499	40
8,500 - 8,999	35
9,000 - 9,999	25
10,000 - 11,999	20
12,000 - 12,999	15
13,000 - 15,000	10

(ii) The supplemental amount for a claimant with a household income equal to or less than \$30,000 and an eligible claim for property tax rebate for real property taxes due and payable during the calendar year preceding the first year in which a payment under section 505(b) of the Taxpayer Relief Act is made and each year thereafter and whose real property taxes exceed 15% of the claimant's household income shall be equal to 50% of the base amount determined under subparagraph (i). A claimant who is a resident of a city of the first class, a city of the second class A or a school district of the first class A shall be ineligible for the supplemental amount under this subparagraph.

(3) The amount of any claim for rent rebate in lieu of property taxes for rent due and payable during calendar year 2006 and thereafter shall be determined in accordance with the following:

Household Income	Amount of Rent Rebate in Lieu of Property Taxes Allowed as Rebate
\$ 0 - \$ 8,000	\$650
8,001 - 15,000	500

(b) Limitations on claims.--

(1) No claim through calendar year 2005 shall be allowed if the amount of property tax or rent rebate computed in accordance with this section is less than \$10, and the maximum amount of property tax or rent rebate payable shall not exceed \$500.

(2) For calendar year 2006 and thereafter, the maximum amount of property tax or rent rebate in lieu of property taxes payable shall not exceed the lesser of:

- (i) the amount of a claim under subsection (a)(2) or (3);
- (ii) the amount of real property taxes actually paid; or
- (iii) 20% of gross rent actually paid.

(3) No claim shall be allowed if the claimant is a tenant of an owner of real property exempt from real property taxes.

(c) Apportionment and public assistance.--

(1) If any of the following exist relating to a claim:

- (i) a homestead is owned or rented and occupied for only a portion of a year or is owned or rented in part by a person who does not meet the qualifications for a claimant, exclusive of any interest owned or leased by a claimant's spouse;
- (ii) the claimant is a widow or widower who remarries;

or

(iii) the claimant is a formerly disabled person who is no longer disabled,

the department shall apportion the real property taxes or rent in accordance with the period or degree of ownership or leasehold or eligibility of the claimant in determining the amount of rebate for which a claimant is eligible.

(2) A claimant who receives public assistance from the Department of Public Welfare shall not be eligible for rent rebate in lieu of property taxes during those months within which the claimant receives public assistance.

(d) Government subsidies.--Rent shall not include subsidies provided by or through a governmental agency.
Section 1405. Filing of claim.

(a) General rule.--Except as otherwise provided in subsection (b), a claim for property tax or rent rebate shall be filed with the department on or before the 30th day of June of the year next succeeding the end of the calendar year in which real property taxes or rent was due and payable.

(b) Exception.--A claim filed after the June 30 deadline until December 31 of such calendar year shall be accepted by the secretary as long as funds are available to pay the benefits to the late filing claimant.

(c) Payments from State Lottery Fund.--No reimbursement on a claim shall be made from the State Lottery Fund earlier than the day following the 30th day of June provided in this chapter on which that claim may be filed with the department.

(d) Eligibility of claimants.--

(1) Only one claimant from a homestead each year shall be entitled to the property tax or rent rebate.

(2) If two or more persons are able to meet the qualifications for a claimant, they may determine who the claimant shall be.

(3) If they are unable to agree, the department shall determine to whom the rebate is to be paid.

Section 1406. Proof of claim.

(a) Contents.--Each claim shall include:

(1) Reasonable proof of household income.

(2) The size and nature of the property claimed as a homestead.

(3) The rent, tax receipt or other proof that the real property taxes on the homestead have been paid or rent in connection with the occupancy of a homestead has been paid.

(4) If the claimant is a widow or widower, a declaration of such status in such manner as prescribed by the secretary.

(b) Proof of disability.--

(1) Proof that a claimant is eligible to receive disability benefits under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) shall constitute proof of disability under this chapter.

(2) No person who has been found not to be disabled by the Social Security Administration shall be granted a rebate under this chapter.

(3) A claimant not covered under the Social Security Act shall be examined by a physician designated by the department and such

status determined using the same standards used by the Social Security Administration.

(c) Direct payment of taxes or rent not required.--It shall not be necessary that such taxes or rent were paid directly by the claimant if the rent or taxes have been paid when the claim is filed.

(d) Proof of age on first claim.--The first claim filed shall include proof that the claimant or the claimant's spouse was at least 65 years of age, or at least 50 years of age in the case of a widow or widower during the calendar year in which real property taxes or rent were due and payable.

Section 1407. Incorrect claim.

Whenever on audit of a claim the department finds the claim to have been incorrectly determined, it shall redetermine the correct amount of the claim and notify the claimant of the reason for the redetermination and the amount of the corrected claim.

Section 1408. Funds for payment of claims.

(a) Payment.--Approved claims shall be paid from the State Lottery Fund established by the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

(b) Transfers.--The Secretary of the Budget shall transfer the following amounts from the Property Tax Relief Fund to the State Lottery:

(1) Notwithstanding any other provision of law, an amount equal to \$100,000,000 of the total slot machine license fees paid by successful applicants for a Category 1 slot machine license under 4 Pa.C.S. § 1209 (relating to slot machine license fee). The transfer under this paragraph shall occur upon deposit in the Property Tax Relief Fund of moneys derived from the fee from the fourth successful applicant for a Category 1 slot machine license.

(2) Notwithstanding any other provision of law, an amount equal to \$100,000,000 of the total slot machine license fees paid by successful applicants for a Category 2 slot machine license under 4 Pa.C.S. § 1209. The transfer under this paragraph shall occur upon deposit in the Property Tax Relief Fund of moneys derived from the fee from the third successful applicant for a Category 2 slot machine license.

(3) For fiscal years 2007-2008 and 2008-2009, an amount equal to the sum of approved claims to be paid in each of those fiscal years under sections 704 of the Taxpayer Relief Act and 1404(a)(2)(ii), if any.

(4) For fiscal year 2009-2010 and each fiscal year thereafter, all of the following:

(i) The difference between the sum of the amount of approved claims to be paid in the next fiscal year under section 1404(a)(2)(i) and (3) and the amount of approved claims paid in fiscal year 2006-2007 under section 1404(a)(1).

(ii) The sum of the amount of approved claims to be paid in the next fiscal year under sections 704 of the Taxpayer Relief Act and 1404(a)(2)(ii), if any.

(5) Beginning in fiscal year 2009-2010 and until the difference between the sum of subparagraphs (i) and (ii) and \$200,000,000 is paid, an amount of not less than \$40,000,000 annually or the amount of the difference, whichever is less. All transfers under this paragraph shall be completed no later than four years after the transfer required by paragraph (2).

(i) The difference between the sum of the amount of approved claims to be paid in fiscal year 2007-2008 under section 1404(a)(2)(i) and (3) and the amount of approved claims paid in fiscal year 2006-2007 under section 1404(a)(1).

(ii) The difference between the sum of the amount of approved claims to be paid in fiscal year 2008-2009 under section 1404(a)(2)(i) and (3) and the amount of approved claims paid in fiscal year 2006-2007 under section 1404(a)(1).

Section 1409. Claim forms and rules and regulations.

(a) General rule.--Necessary rules and regulations shall be prescribed by a committee consisting of the Secretary of Aging, the Secretary of Revenue and the Secretary of Community and Economic Development. The Secretary of Aging shall serve as the chairman of the committee. The department shall receive all applications, determine the eligibility of claimants, hear appeals, disburse payments and make available suitable forms for the filing of claims.

(b) Report to General Assembly.--In addition to any rules and regulations prescribed under subsection (a), the department shall collect the following information and issue a report including such information to the chairman and minority chairman of the Appropriations Commit-

tee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives by September 30, 2006, and September 30 of each year thereafter.

(1) The total number of claims which will be paid in the fiscal year in which the report is issued with the information provided by school district, by county and for each household income level under section 1404(a)(2)(i).

(2) The total amount of rebates paid in the fiscal year in which the report is issued with the information provided by school district, by county and for each household income level under section 1404(a)(2)(i).

Section 1410. Fraudulent claims and conveyances to obtain benefits.
(a) Civil penalty.--In any case in which a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and a penalty of 25% of the amount claimed shall be imposed. The penalty and the amount of the disallowed claim, if the claim has been paid, shall bear interest at the rate of 1.5% per month from the date of the claim until repaid.

(b) Criminal penalty.--The claimant and any person who assisted in the preparation or filing of a fraudulent claim commits a misdemeanor of the third degree and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or to imprisonment not exceeding one year, or both.

(c) Disallowance for receipt of title.--A claim shall be disallowed if the claimant received title to the homestead primarily for the purpose of receiving property tax rebate.

Section 1411. Petition for redetermination.

(a) Right to file.--A claimant whose claim is either denied, corrected or otherwise adversely affected by the department may file with the department a petition for redetermination on forms supplied by the department within 90 days after the date of mailing of written notice by the department of such action.

(b) Contents.--The petition shall set forth the grounds upon which the claimant alleges that such departmental action is erroneous or unlawful, in whole or part, and shall contain an affidavit or affirmation that the facts contained in the petition are true and correct.

(c) Extension of time for filing.--

(1) An extension of time for filing the petition may be allowed for cause but may not exceed 120 days.

(2) The department shall hold such hearings as may be necessary for the purpose of redetermination, and each claimant who has duly filed such petition for redetermination shall be notified by the department of the time when and the place where such hearing in the claimant's case will be held.

(d) Time period for decision.--The department shall, within six months after receiving a filed petition for redetermination, dispose of the matters raised by such petition and shall mail notice of the department's decision to the claimant.

Section 1412. Review by Board of Finance and Revenue.

(a) Right to review.--Within 90 days after the date of official receipt by the claimant of notice mailed by the department of its decision on a petition for redetermination filed with it, the claimant who is adversely affected by the decision may by petition request the board to review such action.

(b) Effect of no decision from department.--The failure of the department to officially notify the claimant of a decision within the six-month period provided for by section 1411 shall act as a denial of the petition, and a petition for review may be filed with the board within 120 days after written notice is officially received by the claimant that the department has failed to dispose of the petition within the six-month period.

(c) Contents of petition for redetermination.--A petition for redetermination filed shall state the reasons upon which the claimant relies or shall incorporate by reference the petition for redetermination in which such reasons were stated. The petition shall be supported by affidavit that the facts set forth therein are correct and true.

(d) Time period for decision.--The board shall act in disposition of petitions filed with it within six months after they have been received, and, in the event of failure of the board to dispose of any petition within six months, the action taken by the department upon the petition for redetermination shall be deemed sustained.

(e) Relief authorized by board.--The board may sustain the action taken by the department on the petition for redetermination or it may take such other action as it shall deem necessary and consistent with provisions of this chapter.

(f) Form of notice.--Notice of the action of the board shall be given by mail to the department and to the claimant.
Section 1413. Appeal.

A claimant aggrieved by a decision of the board may appeal from the decision of the board in the manner provided by law for appeals from decisions of the board in tax cases.

CHAPTER 15

MISCELLANEOUS PROVISIONS

Section 1501. Transitional provision.

(a) Sales and use tax.--Notwithstanding the repeal specified under section 1505(b)(6), the department shall have the authority to enforce the collection of taxes imposed for transactions that occur prior to the effective date of this section under former Article II of the Tax Reform Code of 1971. The taxes collected on or after January 1, 2016, regardless of the transaction date, shall be deposited as provided in section 782.

(b) Other taxes.--Notwithstanding the repeal specified under section 1505(b)(2), a governing body shall have the authority to enforce, after the effective date of the repeal, the collection of taxes levied and assessed under the former provision prior to the effective date of section 1505(b)(2).

Section 1502. Regulations.

The department shall have jurisdiction over and shall promulgate regulations as necessary for the proper administration of this act.

Section 1503. Construction.

Any and all references in any other act to Article II or any provision in Article II of the Tax Reform Code of 1971 shall be deemed a reference to Chapter 7 of this act or the corresponding provisions in Chapter 7 of this act.

Section 1504. Severability.

The provisions of this act are severable as follows:

(1) If any provision of this act is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

(2) Under no circumstances shall the invalidity of any provision or application of this act affect the validity of any provision in this act that abolishes the power of the governing body and any school district and city of the first class or any other political subdivision to levy, assess or collect a tax on any interest in real property for school purposes.

Section 1505. Repeals.

(a) Intent.--The General Assembly declares that the repeals under subsection (b) are necessary to effectuate this act.

(b) Provisions.--The following acts and parts of acts are repealed to the extent specified:

(1) Section 631 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is repealed.

(2) Any provision of the Public School Code of 1949 and of any other law relating to the authority of any school district to levy, assess and collect any tax on real property and the power of any city of the first class to levy, assess and collect any tax real property for school purposes is repealed upon the expiration of the respective schedule prescribed in sections 1101 and 1102.

(3) Any provision of the act of the Public School Code of 1949 and any other law relating to debt is repealed to the extent that it is inconsistent with this act.

(4) Any provision of the Public School Code of 1949 and any home rule charter adopted pursuant thereto is repealed insofar as it is inconsistent with this act.

(5) Any provision of the act of August 9, 1963 (P.L.643, No.341), known as the First Class City Public Education Home Rule Act, and any home rule school district charter adopted pursuant thereto is repealed insofar as it is inconsistent with this act.

(6) Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is repealed.

(7) Subchapters C and D of Chapter 3 and Chapter 13 of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, are repealed.

(8) All acts and parts of acts that are inconsistent with this act are repealed to the extent of such inconsistency.

Section 1506. Applicability.

Chapter 7 and section 1505(b)(6) shall apply January 1, 2016.

Section 1507. Effective date.

This act shall take effect as follows:

(1) Chapters 3 and 4 and section 1505(b)(2) shall take effect June 30, 2016.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Argall.

Senator ARGALL. Mr. President, we owe the taxpayers of Pennsylvania a sincere apology--

Senator COSTA. Mr. President, may we be at ease for just a moment, please?

The PRESIDENT. Without objection, the Senate will be at ease.

(The Senate was at ease.)

And the question recurring,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Argall.

Senator ARGALL. Mr. President, why do we owe this apology to our taxpayers? Because since 1834, we have forced our schools to rely on an outmoded, archaic, and unfair property tax. This is the day, think about it, for the first time in the history of the Senate of Pennsylvania we can eliminate this hated tax. Some of you are going to be familiar with this from either The Byrds in 1965 or the oldest song lyrics from King Solomon in Ecclesiastes Chapter 3: "To every thing there is a season, and a time to every purpose under heaven." Take your pick, King Solomon or The Byrds, today is the day, and it is long overdue.

Think about how much has changed since 1834. Automobiles, indoor plumbing, electric service in the house. This dates all the way back to Governor George Wolf and Andrew Jackson. Now, maybe this was the best that our predecessors could come up with in the 1830s, but certainly today we can do better when it comes to educating our children than sending in the assessor and saying, how old is your house? How big is your house? Did you remember to fix that hole in your roof? When was it last assessed? When was it last spot assessed? There has to be a better way to fund our public schools.

We have had so many missed opportunities. In 1951, my mom and dad were in high school. This General Assembly and Governor Fine enacted a 1-percent sales tax for the first time for education, but they missed the chance to get rid of this unfair tax. In the 1970s, Governor Shapp and the House and the Senate once again tried to address this unfair property tax. They enacted our first income tax, they enacted the Pennsylvania Lottery, they enacted the property tax and rent rebate, so we helped some people a little bit, but we were still stuck with this unfair tax. More modern governors and more modern General Assemblies enacted the Act 1 limits on school district taxes, and casino gaming. Again and again and again we have tried, but we have not succeeded.

Last week, Senator Schwank and I were with 500 people in her district in Berks County. We heard one of the lead grassroots activists, Ron Boltz, explain to those 500 people, you cannot reform this tax, you cannot tweak it, you have to eliminate it. We have tried so many things in education. Some of them have actually worked. There was a time when my father could smoke in the school library. That is not allowed anymore. Wish we would

have gotten rid of it sooner, maybe he would still be with us. My grandfather Argall in 1920s taught in a one-room schoolhouse in Schuylkill County after he graduated from the Kutztown Normal School. They paid him partially in vegetables. We do not do that anymore, but we are still stuck with the same stupid, unfair tax.

Maybe you do not believe The Byrds or King Solomon that today is the day. Let me explain in the words of two modern Pennsylvania political scientists: Terry Madonna and Mike Young - one of my former colleagues at Penn State; Professor Madonna, of course, down at Franklin & Marshall College. He wrote this on March 23, 2015. (*Reading:*)

RIP: The School Property Tax.

"Why not 100 percent? Why settle for half a loaf? Why not get rid of the property tax for school funding altogether?"

It is a radical idea, an extreme idea, an unrealistic idea?
Actually, no!"

The professors continued, "Pennsylvania's property tax, like property taxes in many other states, is a fossilized artifact from the 19th century that faltered badly in the 20th century and failed spectacularly into the 21st century." Why? It is unfair, in their words, it is regressive, it unfailingly falls on seniors and others with fixed income and less means to pay for it. Does anybody doubt that? They also noted that it is costly. The property tax is enormously expensive for government to collect. It is inefficient, it is inelastic. They explain that is economist-speak for a tax that fails to raise enough revenue to pay the bills. It is complex. In their terms, it is Byzantine and baffling to taxpayers.

A few years after my parents retired, my dad got a notice in the mailbox. He called me up right away. His former employer, the school district, had decided that he needed to pay more property taxes than all of his neighbors because he had bought that house, that smaller house, so he did not have to take the steps anymore or rake the leaves. They did not assess the whole neighborhood, they just assessed him. That is how unfair this tax can be. Again, back to Professor Madonna and Professor Young: (*Reading:*)

Among all the major taxes Americans pay, including income and sales taxes, property taxes are the worst by any measure used. Taxpayers loathe them; politicians deplore them; economists condemn them....

This sad state of affairs has gone on too long. Administration after administration going back to Gov. Robert Casey and earlier have tried to somehow reform the property tax, to make it fairer and more efficient. All of these efforts have ended badly.

Now in the 21st century, talking about reforming the 19th century property tax--**in their words**--really is just rearranging the deck chairs on the Titanic long after the iceberg has been hit.

The property tax cannot be reformed--**they note**. But it can be abolished....

Their conclusion--Both sides really want the same thing here - a sane tax system in support of a stable revenue source for schools....

Getting rid of the property tax means--**in their words, the Governor wins, the Republicans win, the Democrats win**--and most important of all, the long-suffering taxpayers of Pennsylvania win.

Again, in their words--It doesn't get better than that.

That is why we need a "yes" vote on this amendment. It has been drafted and supported by more than 80 local taxpayer groups. I am asking for your support on their behalf.

Thank you, Mr. President.

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

Senator FOLMER. Mr. President, I rise in strong support of Senator Argall's amendment to House Bill No. 683. If your districts are like mine, people say school property taxes are their biggest headache and they want the elimination of these taxes to be a top priority of our General Assembly. However, reaching this much needed and long-overdue goal has proven to be elusive because of what it takes to eliminate these onerous and ever-growing taxes.

The total elimination of school property taxes requires nearly \$13 billion--that is right, \$13 billion--in replacement revenues, and there are four other taxes that can be used as replacement revenues to eliminate the school property taxes. We could use personal income tax, we could use earned income tax, we could use sales and use tax, or some new tax. To eliminate school property taxes, the Argall amendment proposes to incorporate the provisions of Senate Bill No. 76 and House Bill No. 683, namely a combination of changes in the sales tax and changes to the personal income tax. The sales tax would be broadened and expanded to 7 percent, and PIT would be increased from 3.07 percent to 4.95 percent. Using the sales tax to replace property taxes works because people have some control over paying some of these consumption taxes. More people pay the sales tax than those who pay property taxes, so we are expanding the base. The sales tax is paid with each purchase, while property taxes are big bills.

Like any State tax policy, shifting from one tax to another will result in different impacts on different taxpayers. To calculate how the changes proposed by Senator Argall's amendment would impact you, compare what you now pay in school property taxes to what you need to spend under an expanded sales tax and higher PIT. Increasing the sales tax to 7 percent and expanding its base would mean you would need to spend \$14,285.71 in newly-taxable items for each \$1,000 you now pay in property taxes before you are a net loser.

A bonus of this plan has two main objections to its original draft. They said the numbers did not work, and the bill is technically flawed. I have been honored to have worked with Senator Argall to address both of these issues and correct them. Changes to this plan were drafted through an arduous process of meeting with opponents, carefully going through their concerns, studying the 2013 Independent Fiscal Office analysis of the plan, and dissecting 13 pages of comments from the Pennsylvania Department of Revenue on the bill as originally drafted. This process resulted in the amendment that is before us today. More importantly, the Argall amendment addresses all of the excuses for not supporting total elimination of school property taxes. The numbers work. It is possible to reach the goal of eliminating school property tax.

Mr. President, the Argall amendment to House Bill No. 683 allows us to reach a much-needed and long-overdue goal of eliminating school property taxes. If you support the Argall amendment to House Bill No. 683, you support the total elimination of school property taxes. If you do not, you agree that maybe the status quo is working.

Mr. President, I urge a "yes" vote on Senator Argall's amendment to House Bill No. 683, and if you would just bear with me on one point: this is the start of something that maybe we should be looking at in the future as we continue this long process. Let me read you something from Article I, Section 1, of our State Constitution. Article I, Section 1, is basically our Bill of Rights.

Article I, Section 1, states that "All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness." My question I ask is this, how is one able to acquire, possess, and protect one's property if for no fault of your own, you cannot afford those very onerous property taxes? This is a beginning. This is not the end. I ask for a positive vote on the amendment to House Bill No. 683. Thank you very much.

The PRESIDENT. The Chair recognizes the gentlewoman from Berks, Senator Schwank.

Senator SCHWANK. Mr. President, forgive me for a moment if I have to catch my breath. This is a moment that many of us, and certainly I, have been waiting for a very, very long time, school property tax elimination. As I have said many times, both on this floor as well as in our caucus, Mr. President, this is the issue that I hear about everywhere I go in my district. When I am at the farmers market, when I am at the doctor's office, at the mall, and even, of course, in my office, I hear from so many individuals about the problem of paying their school property taxes. In particular, Mr. President, the elderly taxpayers are the ones who truly tug at my heart, although I understand that this will be a benefit to many, many, many people.

For those individuals who oftentimes come into my office, the widows and the widowers, they ask to go behind closed doors because for them it is a matter of pride. Many years they have been paying these taxes faithfully. Certainly they had children in school and they wanted to be sure to support education. It is not that they do not care about that. The fact is, however, that their incomes are stagnant. They are not seeing increases. If they have a pension, they are not seeing increases in that, of course. Social Security is not enough to totally live on and continue to pay school property taxes, at least in the district that I live in, Mr. President. These are proud citizens who have lived all of their lives in their homes, raised their families, and played by the rules. But the rules do not work for them anymore. They do not work for young families who are trying to buy a home and find that school property taxes price them out of the market.

As a prime sponsor of Senate Bill No. 76, I am in support of this amendment. I thank Senator Argall for working with a bipartisan group of Senators to address this issue and to try to come to some resolution. This is the only opportunity we have had to address this matter in the Senate in recent memory. It truly is a historic moment. It is one that I think all of us have to consider that occasionally we need to think differently. We have to understand the change that must come to Pennsylvania. This is the time.

Thank you, Mr. President.

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

Senator SMUCKER. Mr. President, I rise to thank the sponsor of the bill and others who have been supportive, the Senator from Lebanon, for the work they have done on this very important issue for residents of the district that I represent. In fact, I think it is fair to say, this is the top issue that any legislator in Lancaster County hears about on a regular basis. I know in the 7 years I have been here, 8 years counting my first campaign for this office, it certainly has been the most important issue that has been brought up to me consistently, whether it be in public fo-

rum or private conversations, and I know that many of us have promised to give any responsible bill fair consideration. Today, we have the chance to do just that.

I think the vote today comes at a critical time for this issue, and I think it also has potential to completely change the momentum around the issue. The Senate has always been the high hurdle in the legislative process surrounding the issue of property tax elimination. So if we pass this bill today, I think, finally, the momentum shifts to the taxpayer advocates. They will no longer have to negotiate among themselves to make changes to a bill that never seems to be quite good enough. The burden would then fall on opponents, who, faced with the prospect of this bill becoming law, will have to try to negotiate changes to make it more workable. There is very good reason for action right now tonight on this floor. Through their persistent and persuasive advocacy, taxpayers have earned their shot at this measure. They deserve to see our votes on the record this evening.

I will be the first to admit that despite all of the work that has been done on this bill, it is far from perfect. I say that as an acknowledgment, not as a criticism. Whenever we talk about changes to property taxes, whether it is elimination, as this bill would do, or reduction, as for other proposals that we have been talking about over the past few weeks, we know that there are problems and very difficult issues that arise. It shifts the tax burden around, thus creating winners and losers. We also know that the real answer and the only way any of these plans work is for true cost constraint down the road. Among all of these plans, only elimination cures one overriding fear, and that is that property taxes will just simply rise again. We certainly have seen the controversy about putting an effective lid on property taxes, and we have seen how complicated that can be.

So this plan this evening, in my view, Mr. President, has a great deal of merit, and its approval would not be the end of this debate. In fact, if this bill were to get to the Governor's desk and he signs it, that would not be the end of implementation, because we know that flaws and glitches would become apparent throughout the implementation of a program like this, as surely they will; nothing prevents us from going back and fixing them. There are plenty of bills and plenty of issues that we can look to, major pieces of legislation that have been voted into law and that subsequently require tweaking with follow-up bills, as I expect could potentially be the case here.

I will say also, Mr. President, there are advantages to this bill that go beyond just the financial. Consider the constant concern from school officials about unfunded and underfunded mandates. Mandates are easy to impose because it is largely left to local officials to figure out how to pay for them. Once in place, they are extremely difficult to uproot, which is why much is said and little accomplished in the way of mandate relief. However, when you start substituting State taxes for local property taxes and funding education, then chances are legislators are going to be much more careful about passing new mandates and more eager to explore opportunities to rescind costly old ones that have outlived their usefulness.

Now, we have all sought office, Mr. President, motivated by the desire to do important and big things. All of us have pledged to pursue reform. Most of us are frustrated when it seems as if we are merely tinkering around the edges of the system. This bill this evening transforms how we pay for education. Pennsylvania, if we did this, would take a far-reaching step that no other State

has been able to manage. We would turn around the perception that State officials do not listen to taxpayer concerns and do not act on their expressed priorities. Those considerations this evening make this a big and important bill, Mr. President, and I am grateful for the chance to support it. Thank you.

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

Senator WOZNIAK. Mr. President, in 1968, the Constitution, we had about 2,700 school districts in this Commonwealth but we had 67 school superintendents. By the stroke of a pen, we created 501 school districts and 501 superintendents. While we need to get our hands around the efficiency of our school system, I have been here not quite since 1968, but the GOP reminded my people last election how long I was here, and I am sure they will also remind them the next election how long I have been here. Ever since I have been here, the issue of property taxes has been out there. Never in the history of this Commonwealth has it gotten as far as this amendment. Under Governor Ridge, there was a Special Session on education, and we discussed the issue of personal income tax, sales tax, and we had all kinds of people at the hearing come up and talk and they were for shifting the gears from the property tax to sales tax, and to an income tax, except for their particular industry. So it died with the cuts of a thousand deaths.

Let us make it very clear, by eliminating property tax, you are not eliminating taxes, you are moving them. It was brought up that in the 1830s, we implemented a property tax, and perhaps back in that time in the world your home was the most valuable thing that you had. That world does not exist today. I do believe in the 1830s, the 1930s, even the 1960s, people did not live to be 80 or 90 years of age. What we are going to do, to make it very clear to the public out there, is that we are going to increase the personal income tax. We are going to horizontally add more sales tax and increase it vertically. When you retire in Pennsylvania, please keep this in mind, your pension is not taxed. So you might be paying that increment upfront for the rest of your working career, but that gift of elimination of property tax begins relatively immediately and lasts for the rest of your life. Your biggest purchases will be probably during your working years, and as you become senior citizens, your purchasing power will decrease because your kids will be grown and you need less goods.

A lot of people say that the sales tax is regressive. The Commonwealth of Pennsylvania says that every child has a right to a quality free education. Free does not mean free to the citizens, it means free to that child. Everybody should have a little bit in the game. Originally, I was pretty questionable about this concept, but the more I started listening, trying to get my arms around it, and the fact that politically, whether you are a Democrat or a Republican, people stand on that pulpit election after election and say, I am for getting rid of your property taxes. I am for trying to do something, and they try to take out the other guy who says that is going to be a little difficult to do. Well, here is our chance to do it. It is going to be a significant increase on one end, but an identical and equal amount of money at the other end. So the question becomes, if you are interested in eliminating your property taxes, the answer to this is yes. If you want the status quo and say, well, this goes too far, it is too complicated, and maybe we can do something different, the answer is no.

For decades, politicians have promised, and the forked tongue of the politician - out of both sides of their mouths. Now is the time. And maybe this does not get to the end game, but maybe this moves us somewhere. I know that the present Governor wanted us to do property tax reduction in his legislation. I know the Senate Democrats had some property tax reduction, even a significant amount in bill form. I am sure the Republicans in both Caucuses have done the same thing. But this is a unique quantum change in the way we look at Pennsylvania. If you have the ability to pay, then you should pay. But it should not be on the property tax, which is there whether you are making a million dollars or you are a widow on a fixed income making \$15,000. This is a unique opportunity, and I am asking my colleagues to be bold, be brave, take the slings and arrows of people saying you are raising the PIT or the other taxes horizontally, or vertically for the sales tax, but you are eliminating property tax. I think this will stimulate our economy, it will certainly keep our senior citizens in their homes, and will make people a lot more comfortable once we vet this whole thing out.

So, today on this Senate floor, let us do something unique. Let us do something we have not done in 40 years, almost 50 years. Let us change the way we pay the education of our most important product in Pennsylvania, and that is our children. I ask for an affirmative vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Indiana, Senator White.

Senator WHITE. Mr. President, I am not going to take a lot of time. The people who have stood up here have been very well spoken. I do not want to repeat too much. I just say, the time has come. It is time to slay this beast. That is what it has been, a burden, as my friend Senator Wozniak says, for well over 40 years. My district, the 41st Senatorial District, which I represent back home, they were making bus trips in Armstrong County down here to demonstrate on the steps of the Capitol in the 1970s. There is still that much passion in the district I live in, and I do not think my district is much different than anybody else's on this floor.

It does appear that the willpower does not exist here in the Capitol to seriously discuss this issue. We take a little bite of the apple, but we never truly get the time or the effort to digest, and if we do take something off, we never put back in protections for what will become an obstacle for the taxes to ever be raised again. We do not do that. That is what this amendment is designed to do. The time has come to end the long statewide nightmare of school property taxes here in Pennsylvania. It is time to stop making excuses that I have made for the last 15 years to our constituents of why elimination of the property tax cannot occur and make this long and necessary reform happen.

People back home wonder what we do down here. Obviously, we have not had much activity since July 1, but this perpetuates it. Here is an opportunity, as others have said, this is a project, a bill that has been worked on by Senator Argall for at least 3 years that I know of. I have signed on to every personal property tax reduction bill there is, but this is the first one that has ever made sense. I think voting "no" on this bill is going to awaken a lot of property owners, and the last time I looked, they are all voters, good voters. They finally, I think, over the course of the last few weeks, were hopeful that we were making progress on

what is not ours, but their number one issue: elimination of the school property tax.

I realize the issue with the construction of this amendment. It is a work in progress, but let us get this to the House. Let us let the effort and work of so many people continue. Keep the dialogue open. There are parts in here that I do not like, especially some of the exemptions that have been eliminated, but this is an opportunity, the time is now, and as I said, let us slay this beast once and for all. Thank you.

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

Senator BOSCOLA. Mr. President, I rise in support of Senator Argall's amendment to House Bill No. 683. The tax shift called for in this bipartisan amendment would make our school funding system more sensible, more rational, and more fair. After coming up empty-handed on property tax reform promises for decades, as was mentioned earlier, I am encouraged that we finally seem committed to finally eliminating property taxes.

Mr. President, our track record is not a good one on this issue. We keep kicking the can down the road, and taxpayers and voters are tired of hearing the same old, same old. Taxpayers probably wish they had a nickel for every time a politician vowed to eliminate property taxes. Just as reliable as the Great Pumpkin or Santa Claus, our citizens know it is election time by the same old speeches and empty promises on property tax reform. In this Session we need to get this done, and adopting this amendment is a major step in that direction. Win or lose today, for my part, I will continue fighting on this issue until we finally eliminate property taxes altogether.

I am not a newcomer on this issue, Mr. President. I have been in this fight ever since elected in 1994. Now, I had a partial victory in 2002 when a little-known section of our Constitution allows the Majority of the House and Senate to call upon the Governor and force him into a Special Session. Back in 2002, I led the effort and actually forced Governor Schweiker into a special legislative Session on property taxes. It was never done before, and it has not been done since. That Governor at the time decided to do nothing about it, which I was disappointed in. I am now proud to be part of a growing coalition of Members who are determined to get property tax reform done this Session.

So here we are today, and while I am pleased that Governor Wolf pushed this issue to the forefront when he made it part of his budget presentation back in March, it was a partial reform of our property taxes, I think we should push on with our efforts to completely do away with this onerous tax. In my view, the tax relief called for in this budget is a partial step in the right direction, but the amendment is a full step in the right direction. This amendment finally drives a stake through the heart of an outdated, antiquated tax system. Do you know what I love about it the most? It is driven by taxpayers and voters across this Commonwealth, not by lobbyists. I love it. That is what is driving this reform, it is the people out there, the people of this Commonwealth. This amendment will shift our local funding obligation away from the local school tax base and onto a larger, more encompassing State tax base, which is larger, more fair, all-encompassing. How great is that? As seniors and others on fixed incomes have painfully seen over the years, the property tax base alone is too small to absorb the ever-increasing school costs and sustain an adequate level of funding. The average school district only receives about a third of its operating budget

from the State. I would say some other districts only receive about 20 percent from the State. What happens then? Eighty percent, 70 percent, falls on the local tax base, which is regressive and unfair.

I point out that what is even more disturbing is you can take a home worth \$180,000 in one district, and that same home of \$180,000 in another district, one might be paying \$1,000 in school taxes, another \$5,000. How fair is that system? You cannot defend it anymore. When a school district receives 70 percent or 80 percent from the local tax base, and say they only get 20 percent from the State or 30 percent from the State, that leaves the lion's share of education funding right on the backs of local homeowners, a much smaller tax base. This unfair system then prompts frequent and almost yearly drastic property tax hikes. Akin to getting blood from a stone, there is only so much revenue in these communities with a shrinking tax base and dwindling revenue streams. Seniors on fixed incomes cannot continue to keep up with ever-escalating property taxes. Young working families with children cannot hope to get their first home under a system that unfairly taxes property value over one's ability to pay. Pennsylvania's real estate market cannot hope to emerge from a recession until we remove this disincentive to owning a home.

Mr. President, while I do commend the Governor, House Republicans, and my Senate Democratic colleagues for their partial solution, and there is nothing wrong with partial solutions, but here today we have a chance to vote on a comprehensive, all-encompassing solution. That takes courage. It is bold, and it is something that I would like to see come out of this body today, because we tinker around the edges all the time, ever since I have been here. Let us raise this tax a little bit and that a little. We never do anything bold. We never do anything that the taxpayers will stand up and say, you know what, Senate? You did the right thing tonight. It does take courage. We have tonight to show the voters out there that we are bold and have that courage.

Now, over the years, I have sought temporary solutions to this antiquated tax system, I admit. I even have a senior citizen tax freeze bill that I have been pushing ever since elected. Unfortunately, all of these halfway solutions are predicated on dealing with symptoms while seeking a cure. Mr. President, this amendment tonight totally eliminates property taxes. This amendment is the cure. Thank you.

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

Senator WAGNER. Mr. President, I also rise to support Senator Argall's amendment to House Bill No. 683. Since I arrived in the Senate a year and a half ago, I have had routine visits at my district office, my Harrisburg office, lots of emails and phone calls about eliminating property taxes, school taxes, in Pennsylvania. Tonight, this amendment would help us reach the ultimate goal of eliminating school taxes. This is not property tax relief and this is not property tax reduction. This is property tax and school tax elimination. To be clear, for listeners out there, you have three taxes. You have local county taxes, you have municipal local taxes, and then you have school taxes. Local, county, and municipal taxes would remain in place. The elimination of school taxes would apply to all real estate in Pennsylvania - residential, commercial, and industrial. To completely eliminate school taxes on real estate, the PA legislature has to find between \$12 billion and \$14 billion of revenue from other sources. Other

sources mean new taxes, increased taxes, and lifting exemptions for goods or services not currently taxed.

It is important that I offer caution to people out there listening. There is no free lunch by doing this. Money is not falling out of the sky, so everyone has to have realistic expectations. I have been a private sector business owner for over 35 years and I learned over 20 years ago a bit of wisdom from a business associate. He said, begin with the end result in mind. So, this is how we begin the task of eliminating school taxes on real estate. We have to identify the actual dollar amount that is needed to cover the school tax elimination. That is the easy part.

Here is the hard part of property tax elimination: we currently have 500 school districts in Pennsylvania. Each school district has a school board. To be clear, there are 500 different school boards that are comprised of volunteer board members. Each school district negotiates teacher contracts for wages and benefits without any input from the legislature. Currently, there are many school districts throughout Pennsylvania renewing teacher contracts with annual salary increases of anywhere from 2 percent to 3.5 percent. These increases are being given in a period when the Consumer Price Index is less than 1 percent.

The private sector business world has seen dramatic health insurance increases. In the private sector, it is customary for employees to pay between 20 and 30 percent of their monthly health insurance costs. In the Philadelphia School District, teachers pay zero toward their health insurance costs. Many teachers throughout Pennsylvania pay a lower percentage toward their monthly insurance costs than private sector workers.

We also still have not fixed the pension crisis in Pennsylvania. Prevailing wage mandates are required for construction and maintenance projects at school districts. In my own school district in York, this past summer the school district replaced roofs on several buildings. The school finance director requested two bids to replace the roofs. The first bid required using prevailing wage labor, and the second bid did not require using prevailing wage labor. The prevailing wage labor price was \$2.8 million; the nonprevailing wage price was \$2.2 million, a difference of \$600,000. The district had no choice but to award the contract using mandated prevailing wage labor.

I call school districts the hungry monster that needs to be put on a diet. Until we solve salary and health insurance increases, completely eliminating school taxes without controlling teacher salaries, health insurance, and pension costs, this initiative would be a disaster. We must get these costs under control.

Another very large issue with school boards is that I estimate between 25 percent and 50 percent of volunteer school board members are married to a teacher, have a son or daughter who are teachers, the board member may be a teacher at another school, or the board member may have been a former teacher. My point is that there is a very large amount of conflict on school boards. These conflicts must be resolved and eliminated. The conflict of interest that I just talked about on school boards is similar to the fox guarding the chicken coop.

So, here is the dilemma I face when voting for this amendment on House Bill No. 683. Have we started an initiative to get these spiraling costs contained or eliminated, and where is the replacement revenue coming from? Here is another bit of wisdom I heard over 20 years ago, align your expectations with reality. In reality, eliminating school taxes is clearly a front-

burner issue for everyone. It must be done correctly, or in 3 years what was a good intention will explode.

That leads me to my closing comment. From a person who will tell you what you need to hear, not what you want to hear, and I tell my constituents this all the time, school tax elimination must be done with great thought, planning, and precision. I believe my colleagues in the Senate are committed to getting this issue to the finish line. I intend to vote on the amendment and House Bill No. 683, but it is important it be done properly. This is a great opportunity to get the ball out on the field so we can solve the school tax crisis properly. Thank you.

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

Senator VANCE. Mr. President, I think I want to say, and now we are going to hear the rest of the story. Sometimes when things sound good, they may be too good to be true. We know that this will entail an increase in both sales and personal income tax, personal income tax from 3.07 to 4.95 percent, as well as sales tax. It is going to broaden it greatly. We really have managed to do it from the cradle to the grave. We are having tax on clothing, footwear, religious publications, caskets, daycare, many, many other things, textbooks, flags, but that is not the point. Many people seem to believe that their property taxes will disappear entirely, go away forever. Not true. If you look at the legislation, you will see that if any bonded indebtedness in the school districts is available, then the property taxes will remain to some degree. Right now out of the 500 school districts, 412 have bonded debt. I asked my own school district, when does your bonded debt go away? 2035. I then asked, can you refinance this bonded debt? It appears there is nothing in the legislation to cover that. So there is also nothing to prevent from rebonding the debt.

Another thing, we have people who own vacation homes in our Commonwealth. They have a vacation home but they live out of State. They will be freed from property taxes, maybe they will pay a small portion of sales tax, but who will pick up that burden? I think we need to look at that. There are also commercial properties that really concern me. I do not mean to pick out casinos, but let us just say that the people who own casinos will be rid of property tax. Is it really fair? Is it possible?

I know that people are enthusiastic, and I understand why they are enthusiastic, but I think we have to step back and see the money that would be raised for elimination of the property taxes, the funds that are available will last for 3 years. Then what happens? Do we increase the personal income tax again? Do we increase sales tax again? The thing that really bothers me most of all is that we are taking any control away from our local schools. The money will be distributed at a State level. I am not real crazy about that. In addition to that, the hold harmless clause will be there, which means that every school district will get what they got the year before. What does this do to growing school districts? They are put in a very, very difficult position and one does not know how they would make that up, if, in fact, the school districts would be forced to go to referendum if they increase spending at all.

I would like to mention that projected money from PSERS earnings this year was supposed to be 7.5 percent. They now actually think it will be 3.2 percent. Is it fair to go back to the school districts for a failure of our State pension system, nothing that they have done, and say, well, I am sorry, you have to come

up with this and you will have to go to referendum again. I just think we need to step back and take a very strong look at what we are doing here, and I personally will be voting "no."

Thank you very much, Mr. President.

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

Senator TOMLINSON. Mr. President, would the maker of the amendment please stand for brief interrogation?

The PRESIDENT. Senator Tomlinson asks if the maker of the amendment, Senator Argall, will agree to stand for interrogation.

Senator ARGALL. Yes, Mr. President.

The PRESIDENT. The gentleman may continue.

Senator TOMLINSON. Mr. President, not that we could ever imagine this happening, but just in our wildest imagination, is there any provision in this bill that would fund our schools in case we might not be able to pass a State budget? Now, I know that is a hard thing to get our arms around, but we are probably looking at the fifth or sixth month now of not having a State budget. Now that we do rely on local tax revenues, now that we do have school districts that do pay probably 80 percent, almost 90 percent of their funding, they are able to get through a budget problem, they are able to get through a disagreement between the Governor and the legislature. Is there a provision in this bill, since all of the money is now going to come into Harrisburg, to fund these schools for 4, 5, 6, 7 months?

Senator ARGALL. Mr. President, there is not, nor is there under the existing law. For those of my friends in the Senate who seem to be so enamored of the status quo, I might note that on this point, we did not change anything at all.

Senator TOMLINSON. Mr. President, I wish to speak on the bill.

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

Senator TOMLINSON. Mr. President, under current law, most school districts have the ability to raise money at the local level with the property tax, and I understand this property tax is a very difficult subject, and I actually commend my colleagues for trying to address this. I tried to address this back in 2002 or 2001, 1996. I worked with Senator Rhoades, tried to homestead this provision so that businesses did not get the big break, tried to make sure that senior citizens had their property taxes frozen, use the PIT because senior citizens do not pay personal income tax. So, I know all the problems that we have, but it just seems to me now that we are going to take all the tax-raising ability, most of it anyway, away from the local school district. My school district has been able to have the kids go to school because they are raising local money. If you take all of that ability away from the local school, that local school has to close. They cannot pay salaries, they cannot pay any of their bills. So, I just thought maybe we would consider that because we are right in the middle of a budget impasse that is approaching 6 months. So, I thought we might think a little bit about how we are going to keep our schools open when we choose up here not to fund them. That is not the fault of the local school board, not the fault of the parents, not the fault of the local taxpayers, but it is our fault. So, I suggest that as we move on we might think about how we would emergency fund these schools if we are going to take away their ability.

It brings up one other point that I would like to address that Senator Vance addressed. I have a casino in my district that pays

\$7 million in property taxes right now. Before they were a casino, they paid \$1 million. I thought, that is great. Now we gave them a casino, they pay \$7 million. That is a great increase for my people and it shares the burden for the local homeowner, and 50 percent of that community's tax base is commercial and industrial. It gives my homeowners a great break, but there is no homestead provision in this bill. Who is going to make up the difference for my casino? My casino will be mad if I vote against this because I am not going to give them a \$7 million break, but if I am a homeowner in that community I would be pretty upset with me because I am going to have to make up that money through all these other taxes. There is a list of taxes here, and I do not think they missed anything. So, you are going to ask me to give my commercial and industrial properties, who have not asked for a tax break, by the way, I am going to give them a break on the backs of my homeowners and residents? I just think that is unfair. I think that is a burden that we should not place on my local taxpayer.

I mean, it is incredible to me that we did not do a homestead provision. It is incredible to me that we are now including an unbelievable \$13 billion tax increase and shifting that burden onto residents, buyers, people who purchase things, income taxes, and yet these commercial properties--of course, the casinos do pay a 54-percent tax now, but still, you are putting that on the everyday citizen. I cannot believe the burden. And there are a lot of rural areas, this is going to be a tax increase. This is not going to be a tax shift. It is not going to be a tax decrease. It is going to be a tax increase in many of our small communities around Pennsylvania.

I know this is a hard problem and I have worked hard on it myself, and I applaud my colleagues for trying to solve it, but if this was easy and we could have solved it, we would have done it years ago. It is very, very difficult to balance this against the homeowner, against the person who purchases goods, against the person who earns a personal income tax. This is very, very hard, but what we have done here today is we have shifted, in my district, and we should vote our districts, from large commercial enterprises to individuals. I think that is not a good thing to do, and I reluctantly think that I am going to have to vote against this because in the past I championed doing property tax reform, a real fair property tax reform, for individual citizens. This is just too big of a giveaway for the bigger corporations and particularly for a casino that is in my district.

Thank you very much, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, as we approach today, I remember a lady who called me when I was county commissioner. During the call I heard all this noise in the background and I asked her, where are you at? She said, I am calling you from a phone booth because I had to end my phone service. It is one of my ways to pay the property tax. Now, in my judgment, no one should be kicked out of their homes, no one should have to end their phone service, no one should sit there on cold nights because they are afraid to turn up the electricity for heat, if they have electric heat, all because they have to pay the school tax. All of us, I think every single Member of this body has promised and told their constituents when they ran for election, we want to have property tax reform, we want to end the school property tax. Well, now is the time to keep the promise. Now is the time to

walk the talk, because I have heard, I look at the elections and I am familiar with the House and the Senate in my area, and they all say the same thing each election: Just trust me, I am going to make sure that we end the property tax. But we never do because there is always an excuse. There is always that so-and-so will be hurt, or this will be done, or that will be done.

Well, maybe Senator Wagner, and I never thought I would be agreeing with my friend from York County--excuse me for using the name--but as my friend from York County has explained, it is a shift of the tax burden. It is the same amount of money, but who is paying now is a variety of people. You see, we sit here and we say we have not raised your taxes, but the truth is we have year after year, and we have raised it on the same people. We sit here and say we have not raised it, and every school board raises their taxes and it is the same people year after year who have their taxes raised. This simply spreads that burden so that a variety of people will now have to pay this tax.

The American dream has always been the family home. In every aspect of our country, it has always been that someone could have a home and a piece of land. What has happened in this Commonwealth is the property tax has destroyed that dream for senior citizens and for young families, and you know it, and I know it. We can sit here, we can make faces, we can deny it, but it is true, and you have heard the same stories that I have heard. In southeast Pennsylvania, what we found ourselves doing is, yes, we are paying 80 percent and 90 percent on property tax because the State only gives us 10 percent or 12 percent back. Well, this is a chance for us to get our share as well. If we really want to deal with any loss to business, we have the ability to do that. We can pass a Delaware loophole and then get \$350 million from corporations. We can pass a Marcellus Shale tax if we wanted to and get money for the schools. We can support the idea well presented by the Senator from Cambria County to consolidate the back-office functions of our schools. We have chosen not to do it. There are ways that we can make up for any loss that we would sustain in terms of corporations. Also, remember, it is business that has to impose these sales taxes, and that might be a potential loss for them in that ring.

Finally, Mr. President, what fascinates me is the unusual coalition that is formed on this matter. The Majority chair of the Committee on Education stands up, and I stand with him, and we stand up to tell you that the property tax can no longer support the schools of this Commonwealth. If you want excellence in education, if you want equity in education across this Commonwealth, the property tax cannot achieve it for us. We have to change the taxing system so that all of our schools have an opportunity to teach every one of our students to the top of the curriculum. The fascinating part, the reason why I think those of us who would call ourselves conservatives in this body, and those of us who might call ourselves progressives or middle of the road, the reason we stand together today is because we have all heard the plea of our citizens. We have all seen and met with those senior citizens who are losing their homes. We have all heard from the young couples who cannot purchase a home, who cannot have part of the American dream because on top of the payment for the home, they cannot afford the property tax, which would go into the mortgage itself.

So, there are interests that do not want any change. Of course there are interests, because remember what Martin Luther King always said, those who have power seldom give up the power

willingly, and those who are benefitting from the current taxing system are not going to stand up and say, let us change it. They are going to fight it as interest groups. What we are saying is, it is about time to speak for the people of this Commonwealth, it is about time to spread the responsibility of educating each child, and we know that we cannot achieve an educational system of excellence until we get rid of the property tax and have a better system to fund our schools.

Times have changed, and just as every institution in our society needs to change with changing time, so do we need to change the property tax. You know and I know that the property tax was a fair evaluation of wealth in the 19th century, and maybe even in the early 20th century, but it is no longer a fair and equitable evaluation of what someone is worth, and yet we continue to use that to determine and to fund our schools. There are moments in history, Mr. President, and this is such a moment. There are moments for change. There are moments when, despite what leaders who lead us say and those who oppose this might say, there are moments in time where we listen to the people. The people have spoken, and in a democratic society, in a just society, in a free society, then it is our responsibility to listen to the people and to respond. That is exactly what the coalition who is for ending the property tax, that is where we are talking from and what we are talking about.

Come on, it is about time to do something. We have the chance. Oh, there are problems with this bill, there are problems with any bill; we have a chance to figure out how we are going to help the schools in case of a crisis like we have now without funding. The fundamental question, to end this, is this: did you promise your constituents when you ran for office that you would end the property tax? If you made that promise, then now is the time to keep that promise. Now is the time to walk the talk. Now is the time to listen to our constituents and end this antiquated system.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Monroe, Senator Scavello.

Senator SCAVELLO. Mr. President, first, I want to commend Senator Argall for his work on the amendment to House Bill No. 683 and his apology to the homeowners out there, because I think we have failed them. I agree with him, not only to the homeowners but especially to the homeowners in the growing districts in the Commonwealth, because since a lousy law was put into effect in 1991 holding the census at that 1990 level, and still funding schools at a 1990 level, if you have grown over these years, you have taken a huge hit. If your population went in the opposite direction, you did very well.

I knocked on 10,000 doors this past year, and as I approached the door, 95 percent of those doors mentioned Senate Bill No. 76 and House Bill No. 76, the seniors especially. I am going to share a story. I am just going to give you a first name, it is Mable. She is 88 years old. She and her husband retired approximately 25 years ago. When she retired, they were debt free. Her property taxes were less than \$1,000. Today her property taxes are knocking on the door of \$6,500 to \$6,600. She lost her husband about 5 years ago and took a \$5,000 hit on her income. She is telling me at age 88, I am making the difficult decision of medicine, food, or paying my taxes. So what does Mable do? She cuts her pills in half, she cuts her meals. Why? Because of what we put on her. And she says, I am guilty of one thing, living too

long. There are a lot of Mables in this Commonwealth with the same problem.

Now, I have heard some things about, businesses are getting a break, a 100-percent break, casinos and businesses. Well, I need the Members who made those comments to please look at the bill. There is a tremendous amount of service taxes that they are going to be paying that is going to offset some of that \$7 million at that casino or any other business. There are service taxes there that those casinos and the businesses are going to have to pay. So they will get some break, but they are not going to get this free meal there. I will also tell you that many of them, especially the ones that have a business that is tired, will be able to take some dollars and reinvest in their properties. When they do that, they create jobs, and if they are successful, they will create more jobs.

I ask the Members to really think about your vote here because this is a defining moment in the Commonwealth. This is an opportunity to get rid of school property taxes for everyone. Every year I know folks are shaking, absolutely shaking, knowing what that bill is going to be, and I see them regularly. I can tell you about the county in which I live, where the mortgage payment per month is less than the property taxes, and that is something that this legislature created with that hold harmless bill. I urge the Members to please think about your vote and put up an affirmative vote for the amendment.

Thank you, Mr. President.

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

Senator TARTAGLIONE. Mr. President, I was not planning to speak, but under this bill, in Philadelphia our sales tax will now be 9.25 percent. That is high. The list has been expanded to include food, clothing, personal hygiene products, diapers, textbooks, and daycare. How can I ask my people in Philadelphia to pay a 9.25-percent tax and not be able to have a raise in the minimum wage? You cannot tax them up that high and not give them a raise. So, please think about that. The minimum wage has to be raised, especially if this sales tax is going to be expanded more.

Thank you, Mr. President.

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

Senator EICHELBERGER. Mr. President, this is a very interesting and very complex problem that we are facing with taxation for the funding of our public schools. There has been a lot said tonight that has been very important to try to understand this bill and the purposes for it. There are a lot of good public policy measures here that are in play, and we have discussed some of them. The shift of taxes is the primary concern that we are focused on, and that is a decision that everyone will have to make based on that. Some can argue that it is better to pay sales and income, some can say that it is better to have that reduction in property, and some will say that it is better to let that situation stand.

I think most people think the situation is not necessarily fair today because the assessed values all across our Commonwealth are much different, have been done at many different times, are looked at, even in one block in a community differently from home to home or business to business. In fact, I can remember stories vividly in Altoona, Pennsylvania, where residents that I spoke with about property taxes would tell me that they would not fix up the exterior of their home because they knew their

taxes would go up. So they would fix up the inside, they will put a home theater in, they will do all sorts of things to the inside because the tax man does not look at the inside of the home, they look at the outside. That is a regressive tax. That is the quintessential definition of a regressive tax. We talk about sales tax being regressive for different reasons, but when you have a tax that penalizes people from taking better care of their properties and investing in their properties, and reward people who allow their properties to deteriorate and not spend money on their properties, that is a regressive tax. It also pulls down the whole neighborhood, when you have properties within your community that are not being cared for and kept up to date.

We have a lot of concern from our constituents about property taxes, and 70 percent of the property taxes in Pennsylvania are school property taxes. I do not get complaints about county taxes or municipal taxes. They are generally very low in comparison to what the schools charge. We are faced with opposition from special interests, and they combine on this particular point to try to fight any changes to this system. What we have in our public schools today is a monopolistic bureaucracy that is opposed to any changes to what their current system is for their taxes, their revenue, how they do business, and how they operate. So a key element to this that I have not heard discussed tonight is accountability. Putting controls on what our local school boards can do to raise revenue is something that people are screaming for all across our Commonwealth. They do not like to see taxes go up on an almost annual basis, and, in some areas, it is annual. In fact, schools consider it a victory if they do not go above their Act 1 allowance for their tax increase. They say, well, we did not go above the Act 1 limit this year. Well, that is nice, but they still raise taxes. I do not see headlines in the paper saying that counties or local municipalities did not go above a couple percent. If they raise taxes, it is a headline in the paper, somebody is raising taxes. When schools do it, they raise them so regularly that when it is below the Act 1 allowance it seems to be a break for the people who live within that school district.

Actually, what we have heard from schools this year is that the State is not contributing enough on a ratio basis compared to other States around the country on what we give them. They say that we do not give them enough, and I always say, well, we can do that. We can shift how the funding works, and we can take away your ability to charge taxes against property in your community, and we will fund it from Harrisburg. They do not know what to do with that answer. Now, I do see what they do with that answer, they do not like that answer. They want the ability to continue to raise taxes back home under any circumstances. To bring up a point that was made earlier, even when we had stimulus money, \$2 billion worth of stimulus money that came from the Barack Obama administration, our schools, the majority of districts in this Commonwealth, continued to raise taxes back home.

So, we do not see that there is always a need for these tax increases. Sometimes there is, sometimes there is not, but the beauty of this new system would be that they can make that case in their own communities.

If they say we have a need to raise taxes, we have a project, or we have programs, or we have special concerns that we need to address, they can make that case to the voters in their district and they can decide as a community what they want to do. It will not be any longer the very isolated members of a school board,

with whatever conflicts of interest exist for them, making that decision and imposing that on the people of their district at will on a regular basis.

So, I ask my colleagues to remember the accountability measures that are in this, just by the nature of how this is constructed. This is a very healthy thing for people as we look at pensions and as we look at other municipal controls that we have worked on in this Chamber over the past several years. This is another accountability measure, but it is for schools. We need to have more accountability with how our schools spend money. So, I ask for an affirmative vote on this amendment, and thank the sponsor for his very dedicated work on this important issue.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Luzerne, Senator Yudichak.

Senator YUDICHAK. Mr. President, the gentleman from Schuylkill County, Senator Argall, started the debate tonight by quoting King Solomon. While I cannot quote chapter and verse of Scriptures, I am singing from the same hymnal this evening with the gentleman from Schuylkill County. I want to applaud the gentleman and applaud the gentlewoman from Berks County, Senator Schwank, who were the primary forces behind the push to eliminate school property taxes in Pennsylvania. It is a very important and necessary debate on a subject not only that I believe includes education, but I also believe includes the economy of Pennsylvania. If you are going to have a 21st century economy, if you are going to have 21st century jobs, you need a 21st century education system, and you cannot have it. You cannot have a 21st century education system if you have an archaic 19th century tax model funding that system. For far too long, many children in Pennsylvania, because of where they live, because of their ZIP Code, were denied a fair and adequate education because of the tax model that we provide them to raise taxes for those schools is inadequate.

So tonight I ask for an affirmative vote on the amendment offered by the gentleman from Schuylkill County. It is an imperfect amendment and it is unfinished work, but we must start in building that 21st century public education system tonight by advancing this amendment and advancing the elimination of school property taxes in Pennsylvania.

Thank you, Mr. President.

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

Senator COSTA. Mr. President, let me begin by stating that, I, too, as did my colleague from Luzerne County, applaud the men and women of this Chamber who stood up and expressed their desire to see changes that relate to how we deal with the property tax issue here in this Commonwealth. I applaud them, I appreciate and understand and feel many times the frustration in their voices and the experiences with which they deal with their constituents back in their respective districts.

Mr. President, the amendment that has been offered today, known as Senate Bill No. 76, in the form of an amendment to this piece of legislation, I think, quoting the words of my colleague from Luzerne County, is imperfect, and, in my view, something that does not warrant an affirmative vote at this time. As such, I am asking my colleagues, and all of my colleagues in the Chamber, for a negative vote.

I would like to touch upon some of the comments made by our colleagues from Cumberland County and Bucks County,

specifically the issues that were raised with regard to, for example, the fact that property taxes will not be eliminated here in Pennsylvania, and that we have in excess of \$25 billion of property taxes that will continue to be exposed, and that the residents of this Commonwealth throughout our 412 school districts, as was mentioned earlier by, I believe, the gentleman from York County or the gentlewoman from Cumberland County, that have 412 school districts which have current debt that must be paid down. So, to suggest that property tax is going away, I think, is not appropriate. The fact of the matter is, 412 school districts will continue to receive property tax bills. Depending upon the level and amount of debt for that particular school district will determine what your property taxes will be, even if Senate Bill No. 76, in this form, will pass and make its way to the Governor's desk.

The second point I want to raise I think was raised by the gentlewoman and the gentleman I referenced earlier, relates specifically to the shifting of in excess of \$3 billion or closer to \$4 billion in commercial property taxes that are currently paid by our business entities across this Commonwealth. We would be relieving them of that burden, as was illustrated by the gentleman from Bucks County, from that obligation. There are a number of businesses across this Commonwealth who, today, pay property tax. I have the privilege of representing a large part of the city of Pittsburgh, and as I look downtown, I see tremendous commercial buildings, 50 and 60 stories high, that would be relieved of their property taxes. That amount of property taxes that they may not be paying would be thrust upon the people of the Commonwealth. All over the Commonwealth people are paying more, with a 62-percent increase in PIT and 1-percent increase in the sales tax, as well as extensive broadening of the sales tax exemption itself. I agree with the gentleman from Bucks, Senator Tomlinson, and the gentlewoman from Cumberland, Senator Vance, when they spoke and said it is not fair that across the board, these entities would be relieved of their obligation to pay any property taxes into our school districts. I think that burden should continue there and that we have to have a conversation about how we address that.

Two other points, and I will end my remarks. With respect to the current legislation, it seems to be overly burdened with legislation that deals with a lot of exemptions that relate to business-to-business. I can appreciate the business-to-business nature of wanting to help protect them, but at the end of the day, what we are saying is that business-to-business activity that will be subject to the sales tax for every one of these taxpayers we are worried about will not be paid by that business. So, they are getting another exemption. In fact, they will get 13 exemptions from the ability to have to pay the sales tax on the relationship that they have with their entities. I believe that is inappropriate and goes too far.

The final piece, Mr. President--I know a lot of us have talked to a lot of our families, middle class families in Pennsylvania, who pay their Federal taxes and State taxes and are very disturbed by some of that. This amendment would provide for an elimination of a pretty extensive and pretty important Federal tax deduction, with folks who itemize on their taxes, eliminates the Federal tax deduction, as I understand it, which is a significant deduction particularly for middle income families who do itemize when they purchase their home. For a variety of these reasons, I ask my colleagues for a negative vote. I would be remiss

if I did not say we understand. At least, I understand the frustration that homeowners experience every day with respect to paying their property taxes, and we are mindful of that. We have to find a way to find another solution to be able to do that. In my view, this is not the solution to try to address that and, as was stated earlier, we need to take a look at some other alternatives that have been out there that address these types of issues that relate to not making sure that we have to deal with the debt and making sure that the business community across Pennsylvania does not get a \$3 billion tax deduction on the backs of every single working man and woman in this Commonwealth. That is what we need to be able to do. I am asking for a negative vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Argall, for the second time.

Senator ARGALL. Mr. President, I want to thank the 84 local taxpayer groups, the Pennsylvania Coalition of Taxpayer Associations, our Senate cosponsors, Representative Cox and his cosponsors on House Bill No. 76, for all of their efforts. I can tell you that since the day that David Baldinger and Representative Cox came to see me, my life has never been the same since they asked me to introduce this bill for the first time in the Senate in trying to end this status quo.

Throughout this long debate tonight, I hope you were listening. Not one speaker defended the school district property tax. Perhaps that is because this system is truly indefensible. We heard a lot tonight about how things have changed since the 1830s. In our own families, primarily today, the language is English in our homes. That was not the case back in the 1800s. Six years ago, I stood right there, my wife was holding my great-grandfather Rohrbach's family Bible, my mom and dad were with us, my daughter was there, and if you would look in that 1871 family Bible, in that third chapter of Ecclesiastes it says, "Alles hat seine Zeit." Everything has its time.

Mr. President, today is the time to repeal and replace this hated and unfair tax. I hear that maybe this bill somehow is not good enough. I did not hear anyone defending the status quo, but for too long we have not had a choice. Tonight, we have a choice. I hear that maybe it does not get everybody that 100-percent property tax right away. If you go back to your districts and you ask your constituents, how about an 80-percent cut? How about a 90-percent cut? How about a 95-percent cut that, yes, will eventually turn into a 100-percent cut? You mention the fact that they will never, ever, ever be subject to another increase by their local school board in the property tax. Senator Scavello keeps whispering in my ear that we will still allow them to have the earned income tax. They will have other options, but we are taking away that property tax that so many of us have heard complaints about.

I think after 181 years, this repeal effort is long overdue, and I am asking for your support tonight.

LEAVE CHANGED

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request that Senator Scarnati's leave be changed from a personal leave to a legislative leave.

The PRESIDENT. Senator Corman requests that Senator Scarnati's leave be changed from a personal leave to a legislative leave. Without objection, the leave will be changed.

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

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

(During the calling of the roll, the following occurred:)

The PRESIDENT. The vote on the amendment is "ayes," 24; "nays," 24. The Chair exercises his prerogative to break the tie and votes in the negative.

The following vote was recorded:

YEA-24

Alloway	Brewster	Rafferty	Vogel
Argall	Browne	Scarnati	Vulakovich
Aument	Dinniman	Scavello	Wagner
Baker	Eichelberger	Schwank	White
Bartolotta	Folmer	Smucker	Wozniak
Boscola	Mensch	Stefano	Yudichak

NAY-25

Blake	Haywood	Pileggi	Wiley
Brooks	Hughes	Sabatina	Williams
Corman	Hutchinson	Tartaglione	Yaw
Costa	Kitchen	Teplitz	
Farnese	Leach	Tomlinson	
Gordner	McGarrigle	Vance	
Greenleaf	McIlhinney	Ward	

The President exercised his constitutional prerogative to vote "nay."

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

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

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of an off-the-floor meeting of the Committee on State Government to be held in the Rules room.

The PRESIDENT. For the purpose of an off-the-floor meeting of the Committee on State Government, without objection, the Senate stands in recess.

AFTER RECESS

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

**UNFINISHED BUSINESS
BILLS REPORTED FROM COMMITTEE**

Senator BROWNE, from the Committee on Appropriations, reported the following bills:

HB 347 (Pr. No. 2259) (Rereported)

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in emergency medical services system, providing for emergency service system billing.

HB 857 (Pr. No. 1046) (Rereported)

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, in children's health care, further providing for expiration.

HB 1332 (Pr. No. 1814) (Rereported)

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, in retirement for school employees, further providing for definitions and for construction of part; providing for notice to members; further providing for credited school service, for creditable nonschool service, for eligibility for annuities, for eligibility for vesting, for eligibility for refunds, for regular member contributions for current service, for pickup contributions, for return of accumulated contributions, for maximum single life annuity, for disability annuities, for member's options, for termination of annuities, for death benefits, for payment of benefits, for duties of board regarding applications and elections of members, for duties of employers, and for rights and duties of school employees and members; in retirement for State employees and officers, further providing for definitions, for credited State service, for creditable nonstate service, for Social Security integration credits, for eligibility for annuities, for eligibility for vesting, for eligibility for special vesting, for eligibility for refunds, for regular member contributions for current service, for Social Security integration member contributions, for waiver of regular member contributions and Social Security integration member contributions, for member contributions for the purchase of credit for previous State service or to become a full coverage member, for contributions for the purchase of credit for creditable nonstate service, for incomplete payments, for return of total accumulated deductions, for maximum single life annuity, for disability annuities, for member's options, for termination of annuities, for death benefits, for payment of benefits, for duties of board to advise and report to heads of departments and members, for duties of the board regarding application and elections of members, for duties of heads of departments, for rights and duties of State employees and members, and for taxation, attachment and assignment of funds; and providing for construction of part with respect to the Internal Revenue Code.

HB 1603 (Pr. No. 2544) (Rereported)

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in uniform interstate family support, making extensive revisions to general provisions, jurisdiction, civil provisions of general application, establishment of support order, direct enforcement of order of another state without registration, enforcement and modification of support order after registration, determination of parentage, interstate rendition and miscellaneous provisions; and providing for support proceeding under convention.

RESOLUTION REPORTED FROM COMMITTEE

Senator FOLMER, from the Committee on State Government, reported the following resolution:

SR 248 (Pr. No. 1435)

A Resolution urging the Governor of the Commonwealth of Pennsylvania, the President of the United States and the Secretary of the United States Department of Homeland Security to discontinue the resettlement of Syrian refugees in this Commonwealth until such time as systems are in place to conduct effective and thorough security and background checks on Syrian refugees and to send a report detailing the increased measures to the states that are under consideration to receive Syrian refugees.

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

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 Betty Jane Kendig by Senator Aument.

Congratulations of the Senate were extended to Robert Dodge, Sr., Kevin Clare, Mildred Compton, Ally Rome, Dominic Hockenbury, Christopher J. Huntington, Anthony R. Huntington, Michael T. Huntington and to the members and coaches of the Dallas High School Boys' Cross Country Team by Senator Baker.

Congratulations of the Senate were extended to John Hartman and to the members and coaches of the Bethlehem Catholic High School Softball Team by Senator Boscola.

Congratulations of the Senate were extended to Chief William Hohos by Senator Brewster.

Congratulations of the Senate were extended to Michael Wilham Cocco and to Albert Anthony Nork by Senator Browne.

Congratulations of the Senate were extended to Buck's Laundry by Senator Corman.

Congratulations of the Senate were extended to Betsy E. Huber and to Christian Graham Snyder by Senator Dinniman.

Congratulations of the Senate were extended to Valerie J. Minyard by Senator Kitchen.

Congratulations of the Senate were extended to Robert V. Williams, Mary Jane Smedley, Margaret J. Ahrendt, Josephine White, Eva Cudney and to the Marcus Hook Preservation Society by Senator Pileggi.

Congratulations of the Senate were extended to Johnathan M. Garlow by Senator Stefano.

Congratulations of the Senate were extended to Chief Master Sergeant Thomas J. Horn, Chief Master Sergeant David B. Kann and to the members and coaches of the Cumberland Valley High School Mens' Water Polo Team by Senator Vance.

Congratulations of the Senate were extended to Joe Philistine by Senator Yudichak.

CONDOLENCE RESOLUTIONS

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

Condolences of the Senate were extended to the family of the late Adelaide Dodds and to the family of the late John H. Dodds by Senator Haywood.

Condolences of the Senate were extended to the family of the late Ross E. Stempel, Jr., by Senator McIlhinney.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, NOVEMBER 24, 2015

10:00 A.M.

JUDICIARY (public hearing to consider the nominations of the Honorable Lydia Kirkland and Leo Dunn, Esquire, to be members of the PA Board of Probation and Parole)

Room 8E-B
East Wing

10:30 A.M.	LAW AND JUSTICE (public hearing to consider the nomination of Tyree Blocker as PA State Police Commissioner; and to consider House Bill No. 941)	Room 461 Main Capitol
Off the Floor	APPROPRIATIONS (to consider Senate Bill No. 1071; and House Bills No. 150 and 1327)	Rules Cmte. Conf. Rm.

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 130**, with the information the House has passed the same without amendments.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 880**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule 13(c)(2)(i), the bill will be referred to the Committee on Rules and Executive Nominations.

HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bill for concurrence, which was referred to the committee indicated:

November 23, 2015

HB 1327 -- Committee on Appropriations.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Mike Stack) in the presence of the Senate signed the following bills:

SB 130, SB 490 and HB 735.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I move that the Senate do now recess until Tuesday, November 24, 2015, at 11 a.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed at 9 p.m., Eastern Standard Time.