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Children's Justice & Advocacy Report

To promote community responsibility so every Pennsylvania child is protected from child abuse, including sexual abuse.

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Pennsylvania senators broker a deal with Governor Wolf to "balance the budget"

Last weekend, [Speaker of the Pennsylvania House of Representatives, Mike Turzai \(R-Allegheny\)](#), summoned the 200 plus state representatives back to Harrisburg to try and see if that legislative chamber could find a path forward to balance Pennsylvania's budget.

Remember lawmakers voted in bipartisan (and overwhelming fashion) to send [House Bill 218](#) to Governor Tom Wolf on June 30th outlining all the

ways lawmakers and the Governor wanted to spend \$32 billion in 2017-2018. That spending bill landed on the governor's desk and loads of press releases were prepared touting all the *wins* in the budget bill.

Each press release, however, had to include the footnote informing the readers that there was a bit of a (big) caveat to all those *wins* – the Governor and lawmakers had not yet agreed on how to pay the bills and balance the budget including closing a \$2 billion plus deficit.

Instead, they had decided to head home for the July 4th holiday and try to negotiate a deal about how to pay the bills, at a later date.

Saturday, PA House members were gaveled into session and shortly thereafter were sent back to their home counties by Speaker Turzai as he cited no revenue raising deal on the horizon.

By Wednesday, frustrated Senate leaders (on both sides of the political aisle) had negotiated a revenue raising deal with Governor Wolf. A deal no one is fully celebrating, but enough senators (and the Governor) have embraced meaning the budget battle ball is now back in the PA House of Representatives' court.

In the words of [Senate Majority Leader Jake Corman \(R-Centre\)](#) the PA Senate was working in Harrisburg Thursday "to balance the budget." Corman reinforced that the General Assembly has

a constitutional duty to ensure that the Commonwealth operates with a balanced budget. He concluded, "Hopefully our friends in the House will come back to Harrisburg and take up this measure."

[Minority Leader Senator Jay Costa \(D-Allegheny\)](#) echoed Corman's words about lawmakers being elected to govern. He said the bills before them, the votes they were being asked to cast represent "tough choices" but the "consequences of doing nothing" were significant, including the state's failure to pay bills and risking a downgrade of its credit rating.

The difficult choices and votes cast by senators were related to the side car or implementing (as well as revenue raising) bills required to complete the state budget process. The bills within the Senate-Wolf brokered budget deal include:

- Administrative Code ([House Bill 118](#)) approved 37 to 13¹
- Fiscal Code ([House Bill 543](#)) approved 40 to 10²
- Human Services Code ([House Bill 59](#)) approved 49 to 0³
- Public School Code ([House Bill 178](#)) approved 34 to 16⁴
- Tax Code ([House Bill 542](#)) approved 26 to 24⁵

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"New ground broken" as Senate approves a severance tax and dedicated funding for LIHEAP

This tax code bill ([House Bill 542](#)) provides some of the framework by which the Commonwealth would close a multi-billion funding gap confronting Pennsylvania.

¹http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2017&sess_ind=0&rc_body=S&rc_nbr=262

²http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2017&sess_ind=0&rc_body=S&rc_nbr=264

³http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2017&sess_ind=0&rc_body=S&rc_nbr=213

House Bill 542 was voted out of the Senate Appropriations Committee in a bipartisan way by a vote of 19 to 5.⁶ Four of the five negative votes were cast by Republicans and one Republican senator (Lisa Baker) and one Democrat (Daylin Leach) did not cast a vote on the bill during the meeting.

Bipartisan leaders from the Pennsylvania Senate and Governor Tom Wolf know they have brokered a tax code bill that no one celebrates (notably Republican leaders in the Pennsylvania House of Representatives), but legislators and Wolf spoke about the need to be "responsible."

On Wednesday night, [Majority Leader Jake Corman \(R-Centre\)](#) urged his colleagues to support the tax code bill saying it was necessary if the Commonwealth is to continue its "responsibility to educate our children, to provide for higher education, to provide for human services, to pay our corrections bill, to pay our debt service." He said fulfilling each of those responsibilities would be impossible without agreeing "to more revenue."

Senators and Wolf are also banking on \$1.225 billion from bonds issued when the state leverages (borrows) from the state's Tobacco Settlement Fund.

A surprise win for Wolf was agreement to a "new tax at a rate of 1.5 cents to 3.5 cents per thousand cubic feet of natural gas (Mcf) on each producer subject to the existing unconventional gas well." Wolf and a number of lawmakers (from both sides of the political aisle) have sought to secure a severance tax paid by Marcellus Shale natural gas drillers. The Senate's Fiscal Note projects that this severance tax will generate \$80 million in 2017-2018.

⁴http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2017&sess_ind=0&rc_body=S&rc_nbr=263

⁵http://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2017&sess_ind=0&rc_body=S&rc_nbr=265

⁶<http://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVoteSummary.cfm?sYear=2017&sInd=0&chamber=S&cteCde=3&theDate=07/26/2017&RollCallId=429>

Senator Vincent Hughes (D-Philadelphia), who is the Minority Chair of the Senate Appropriations Committee, used his Thursday floor remarks to speak often and with great emotion about the “new ground” woven into the advancing code bills.

Citing a more than 10 year effort, he excitedly talked about the votes to impose a severance tax. “We cannot look past that” even as he cited it as “modest” and not at the level he would have wanted.

Other taxes are also in the mix.

More than \$405 million will be raised by increased or new gross receipts taxes (GRTs) paid for electric, telecommunications and natural gas.

More than 15 years ago, Pennsylvania lawmakers removed the GRT for natural gas, but that was then this is now. Beginning August 1st, natural gas consumers will face a new 5.7 percent (or 57 mills) GRT. Meanwhile the existing GRT for electric will rise from 5.9 to 6.5 percent. Finally the GRT for telecommunications rises from 5 to 6 percent.

Ultimately the GRT changes generate approximately \$450 in revenue, but \$20 million will be used to fund “a new Natural Gas Optimization Program.”⁷ According to the Senate’s fiscal note, this program will establish a “competitive grant process open to natural gas distribution companies to expand access to gas, accelerate the placement of infrastructure, make the use of gas more efficient and affordable to consumers, etc.”

Also, \$20 million realized through the GRT increases will be directed to “augment the Low-Income Home Energy Assistance Program (LIHEAP).”

Hughes praised this “dedicated permanent funding mechanism to help low-income individuals with their heating and energy assistance needs.” He concluded, “That is important and that is new ground.”

Pennsylvanians who are fans of “consumer fireworks that are suitable for use by the public” get ready to pay more. The tax code bill brokered between the Pennsylvania Senate and Governor Tom Wolf “imposes a new tax at the rate of 12 percent of the sale price.” The Senate’s fiscal note states that this 12 percent tax “would be in addition to the sales and use tax already imposed on such sales.” This new tax will generate just under \$3 million for the Commonwealth.

Finally, the state hopes to get better at collecting the state’s 6 percent sales and use tax on sales made between consumers and “Marketplace Providers (Remote i.e. Internet, Sellers)”. Expanding the reach of the sales tax would generate approximately \$43 million in revenue for the state.

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Fees for criminal records and child abuse history background checks would increase

Representative Aaron D. Kaufer (R-Luzerne) introduced [House Bill 118](#) as part of a multi-bill package of legislation intended to promote a “broad approach to addressing the ongoing opioid epidemic.”⁸

The legislation, as introduced, sought to create an Emergency Drug and Alcohol Detoxification Program (EDADP).

Kaufer’s bill began as legislation amending Pennsylvania’s Health Care Facilities Act. His legislation is now the administrative code bill required to accompany the 2017-2018 budget.

House Bill 118 increases the fee the Pennsylvania State Police (PSP) can charge for a criminal history check. Technically House Bill 118 doesn’t increase the fee instead it permits PSP to increase the fees after they publish a notice in the Pennsylvania Bulletin.

A representative for the PSP told a reporter for the Harrisburg Patriot News that the PSP expects to

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<http://www.legis.state.pa.us/WU01/LI/BI/SFN/2017/0/HB0542P2259.pdf>

⁸<http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMeMoPublic.cfm?chamber=H&SPick=20170&cosponId=22146>

increase the fee from the current \$8 (a fee that has been in place since July 2015 when Governor Tom Wolf decreased the fee from \$10) to \$22.⁹

House Bill 118 also will allow the Pennsylvania Department of Human Services (PA DHS) to increase the fee it charges to process child abuse history clearances for persons seeking to work with children. Current law sets the maximum fee that PA DHS can charge at \$10.

In July 2015, Governor Wolf reduced the cost of the child abuse clearance for those seeking to work with children to \$8. As part of his 2017-2018 budget proposal, Wolf sought a \$5 increase raising the fee to \$13. The administrative code legislation advancing then as part of the budget process changes state law so that PA DHS has the authority to charge up to \$13 to check the child abuse history of those seeking to work with children.

The background check fee increases are projected to generate more than \$30 million for the Commonwealth in 2017-2018 with \$2.9 million of it related to the PA DHS child abuse history clearance fee increase.¹⁰

Officials for the PSP and PA DHS have confirmed that the bipartisan agreement put into place in 2015 to waive the fees for individuals volunteering in schools and other child-serving (related) activities or programs will not be undone. Such volunteers will still be able to obtain (once in a five year period) the PSP criminal history and PA DHS child abuse history background checks, at no cost.

The administrative code bill also includes provisions to:

- Permit the Attorney General as well as legislators who serve on the Pennsylvania Commission on Crime and Delinquency (PCCD) Board to appoint a designee to serve as "their alternate to the Board."

- Increases the cost of a death certificate from \$9 to \$20 with a projection that it will generate \$2 million in revenue in 2017-2018.
- Adds an additional \$2.50 fee "to be applied to conviction or guilty pleas" generating approximately \$5 million a year in revenue.

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First Chance Trust Fund (commitment to children of incarcerated parents) advances as part of budget deal

Late last month, Senate Appropriations Committee Chairmen [Pat Browne \(R-Lehigh\)](#) and [Vince Hughes \(D-Philadelphia\)](#) joined with [Minority Leader Jay Costa \(D-Allegheny\)](#) along with [Senator Richard Alloway \(R-Lancaster\)](#) to announce that they have collaborated with Governor Tom Wolf and the state Department of Corrections (DOC) toward "establishing a public charitable trust to help reverse the direction of prison-bound youth in Pennsylvania."¹¹

The Pennsylvania DOC reports that 81,906 children (about 3 percent of the children in the state) have a parent incarcerated in a state prison.¹² More than 75,000 of these children have a father who is incarcerated and 5,349 children are growing up as their mother is in prison. Nearly two-thirds of all persons incarcerated in a Pennsylvania state prison "have at least one child."

Hughes spoke passionately about these children at a June 25th press conference announcing legislation to create the "first in the nation" First Chance Trust Fund.

[Senate Bill 790](#) was introduced to help these children "get support, assistance and the connectivity they need to become successful."

⁹

<http://www.pennlive.com/politics/index.ssf?/base/politics&coll=1495031111111111&list=1495031111111111&coll=1>

¹⁰

<http://www.legis.state.pa.us/WU01/LI/BI/SFN/2017/0/HB0118P2256.pdf>

¹¹[http://www.legis.state.pa.us/cfdocs/Legis/CSM/showM
emoPublic.cfm?chamber=S&SPick=20170&cosponId=242](http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20170&cosponId=24237)

¹²

<http://www.cor.pa.gov/General%20Information/Pages/Children-of-Incarcerated-Parents.aspx#.WXnjJ4jD-aE>

Thursday Hughes was thrilled by the “new ground” that the trust fund represents.

The bipartisan leadership and united front for vulnerable children has translated into the First Chance Trust Fund being created within [House Bill 453](#) – the needed fiscal code bill linked to the 2017-2018 budget.

Leaders project that between \$500,000 and \$1 million can be generated when the DOC asks that contractors (with contracts exceeding \$5 million annually) contribute “the equivalent of 1% of the annual contract amount to the fund.”¹³ Eventually other state agencies could adopt a similar approach with contractors so that additional revenue can be generated for the fund.

Money from the Trust Fund would be appropriated to the Pennsylvania Commission on Crime and Delinquency (PCCD) toward:

1. Establishment of a scholarship program for students residing in regions of the Commonwealth “which have statistically higher high school dropout rates or incarceration rates.”
2. Provide grants to support “evidence-based or outcome-based” programs that meet certain eligibility requirements (set by PCCD) with these programs “aimed at reducing risk factors and producing positive outcomes.” Such programs could include mentoring, individual counseling and therapeutic services and family-strengthening activities. Funds for such programs would be awarded in consideration of regions of the state with “statistically higher high school dropout rates or incarceration rates.”

Within 60 days of enactment of the legislation, PCCD will have to adopt a “statement of policy for the maintenance and use of the fund” and then have that policy published in the Pennsylvania Bulletin.

At the June press conference, there was universal praise for [DOC Secretary John Wetzel](#). Senator

Browne recognized Wetzel’s “creative ideas” further noting that “in difficult financial times” it is critical to “look to non-traditional approaches” to make smart investments toward improving outcomes for the Commonwealth’s children.

Senators Alloway and Costa stressed that Wetzel is “forward thinking.”

Opioid prevention education coming to PA schools

Pennsylvania statute already requires schools to provide “mandatory instruction in alcohol, chemical and tobacco abuse” to students annually in grades kindergarten through 12th grade. This instruction is woven into school health curriculums. The instruction must be age-appropriate, “sequential in method of study” and also “discourage the use of alcohol, tobacco and controlled substances.” The health-related curriculum is also to “communicate that the use of illicit drugs and improper use of legally obtained drugs is wrong.”

Effective with the 2018-2019 school year, students enrolled in 6th through 12th grades would have to be exposed to “instruction related to the prevention of opioid abuse.” This instruction is expected to have an “emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, including heroin.”

A “model curriculum” is to be developed by the Departments of Drug and Alcohol Programs (DDAP), Education (PDE) and Health (DOH). Schools “may” but would not be required to use this model curriculum.

An evaluation “of the effectiveness of the instruction” and the curriculum materials as well as the in-service training developed by DDAP, PDE and DOH is required.

These state agencies also “shall make available” to all school districts and nonpublic schools “in-service training programs” related to opioid prevention.

¹³

<http://www.legis.state.pa.us/WU01/LI/BI/SFN/2017/0/HB0453P2258.pdf>

The Pennsylvania Senate's Fiscal Note for House Bill 178 assures that this opioid prevention education, along with its model curriculum and in-service training, will result in "minimal" costs to DDAP, PDE or DOH. It is assumed that any costs related to the required tasks "can be accomplished within the agencies' normal operating budgets as curriculum and training programs are already widely available."¹⁴

Schools to be prohibited from "stigmatizing students" unable to pay lunch tab

Earlier this year, Pennsylvania [Senate Minority Leader Jay Costa \(D-Allegheny\)](#) introduced [Senate Bill 709](#), notifying his senate colleagues that he intended "to prevent the awful practice of food shaming children at school meals."¹⁵

As he invited co-sponsors he cited media reports revealing schools that "withheld" meals from students largely because the child's "parents owe money to the school district for meals." Some of these schools were not only withholding the meal but "marking children with bracelets or stamps to denote that a child's parents are in arrears for school meal payments." Costa stressed that school meals "are an essential part of the educational experience for children" and therefore "no child should go without a meal due to the financial situation of the child's parents."

Costa has leveraged his political power to ensure that his intentions were woven into House Bill 178 (Public School Code bill).

Each school board "shall establish a requirement" where schools within its jurisdictions "provide a school food program meal to a student who requests one." The only way that such a meal cannot be provided is if the child's parent or guardian "has specifically provided a written directive to the school to withhold a school meal." School boards would also have to direct any "communications regarding money owed by a

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<http://www.legis.state.pa.us/WU01/LI/BI/SFN/2017/0/HB0178P2257.pdf>

¹⁵[http://www.legis.state.pa.us/cfdocs/Legis/CSM/showM
emoPublic.cfm?chamber=S&SPick=20170&cosponId=23879](http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20170&cosponId=23879)

¹⁶<https://www.congress.gov/bill/115th-congress/house-bill/2401/cosponsors>

student" for meals to the student's parent or guardian "and not to the student."

School boards would also have to ensure that schools are not "publicly identifying or stigmatizing a student who cannot pay for a school meal or who owes money for school meals." Schools also would be banned from "requiring a student who cannot pay for a school meal to perform chores or other work to pay for a school meal." Finally, schools would have to avoid "requiring a student to discard a school meal after it was served" when it is discovered that the student does not have the ability to pay for the meal.

Anti-Lunch Shaming Act bills have also been introduced in Congress. United States Senator Bob Casey co-sponsored [S.1064](#) and an identical bill has been introduced in the United States House of Representatives as [H.R.2401](#). Congressmen Bob Brady, Brendan Boyle and Dwight Evans have co-sponsored H.R. 2401.¹⁶

Similar to Costa's Pennsylvania specific legislation, the federal bills would require that schools "not permit public identification or stigmatization of the child, such as by requiring a wristband or hand stamp. The child also may not be required to: (1) perform chores or activities that are not required of students generally, or (2) dispose of food after it has been served to the child."¹⁷

Baker's ABLE Savings Program Tax Exemption Act part of Senate-Wolf budget deal

Woven into the tax code bill is the work of [Senator Lisa Baker \(R-Luzerne\)](#) to encourage and support families who put money aside to save for costs associated with caring for a loved one with a disability (as outlined in her free-standing Senate Bill 677).¹⁸

¹⁷ <https://www.congress.gov/bill/115th-congress/senate-bill/1064?q=%7B%22search%22%3A%5B%22lunch+shaming%22%5D%7D&r=1>

¹⁸ <http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2017&sInd=0&body=H&type=B&bn=0542>

Last year, lawmakers authorized Pennsylvania's Treasurer to create the Achieving a Better Life Experience (ABLE) Savings Program.¹⁹ Act 17 of 2016 set forth that Pennsylvania's Treasury Department "may establish and maintain a savings program to allow ABLE savings accounts to be opened for eligible individuals for payment of qualified disability expenses."

Pennsylvania Treasurer Joe Torsella recently announced that since the launch of the Pennsylvania ABLE Savings Program (PA ABLE) in April, ABLE account holders "have collectively saved more than \$1 million."²⁰

Torsella praised the work of Baker, state representative Bernie O'Neil and U.S. Senator Bob Casey saying these lawmakers had provided Pennsylvanians with the "tools to offset the significant, extra costs associated with raising a child or living with a disability, without jeopardizing essential medical assistance or Supplemental Security Income."

Baker's 2017 legislation and now the advancing tax code bill ([House Bill 542](#)) ensures that contributions (up to \$14,000) into an ABLE savings account would be exempt from the state Personal Income Tax (PIT).

In introducing her legislation earlier this year, Baker wrote, "Providing individuals with disabilities and their families with state income tax benefits, including deductibility of contributions into ABLE accounts, similar to that currently provided to families saving for college, would advance those individuals' own efforts to achieve financial security and is good public policy."

Baker's work product also ensures that any undistributed earnings on the account, rollover distribution or other amounts distributed that are excluded from federal taxes also "shall be exempt from all taxation by the Commonwealth and its political subdivisions."

¹⁹<http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=2016&sessInd=0&smthLwInd=0&act=17>

²⁰<http://www.prnewswire.com/news-releases/treasurer-torsella-announces-major-milestone-for-pa-able-savings-program-300488032.html>