



**House Republican Policy Committee
Public Hearing on Pennsylvania's Economic Competitiveness & What Can Be Done
to Improve Pennsylvania's Business Climate**

**Testimony of Samuel Denisco, Director Government Affairs
Pennsylvania Chamber of Business & Industry**

Good morning Chairman Turzai and members of the Committee. My name is Sam Denisco. I am Director of Government Affairs for the PA Chamber of Business and Industry. The Pennsylvania Chamber is the largest broad-based business association in Pennsylvania representing approximately 24,000 members and customers. Thank you for giving the Chamber the opportunity to testify. My testimony today will give a background of Pennsylvania's tax climate and how the business community wants the Commonwealth to move forward in order to compete successfully for new jobs and investment.

States throughout the country compete with one another for economic development. Tax policy is always a key dynamic. PA has been recognized

as uncompetitive for corporate taxation by various publications and entities. According to an American Legislative Exchange Council study, PA ranked 44th for economic performance based on personal growth per capita, absolute domestic migration and non-farm payroll employment. Furthermore, PA ranked 37th for economic outlook based on an equal-weighted average of 16 state policy variables. In March 2007, Tax Foundation Studies indicated that with the exception of the state of Iowa, Pennsylvania's combined federal and local corporate income tax rate is higher than any other industrialized nation. Expansion Management Magazine in a 2005 edition ranked PA 33rd in general taxes and 43rd in taxes and spending. Finally, Forbes Magazine's Economic Freedom Survey ranked PA 45th overall in 2006.

Where are we as a state? The state of Pennsylvania has both a franchise tax and a capital stock tax. If your corporation is a foreign corporation (a corporation organized outside of Pennsylvania), it is subject to the franchise tax unless you elect to be subject to the capital stock tax. The Pennsylvania capital stock (property) tax is imposed on your company if it is a domestic corporation having capital stock, a joint-stock association, a limited

partnership, and every company organized or incorporated by or under Pennsylvania law including regulated investment companies.

The phase-out of the CSFT was enacted in 1999 which has lowered the millage to 3.89 mills through tax year 2007. From 2001 to 2006 the rate went from 7.49 to 5.99 where collections increased by 18%. However, it is very important to note that the commitment on tax cuts was abandoned twice. In June of 2002, the statutory rate for 2002 was increased .75 mills, although maintaining a .25 reduction from the year before. In December of 2003, the statutory rate for 2003 was again increased to effectively eliminating any reduction from the previous year. We need to stick to the commitment – a slow down of the phase-out is a tax increase.

The 9.99% CNI tax rate is second only to Iowa which has a graduated tax with a median of 9.2%. The national average is 6.87%. The 2007 Tax Foundation's State Business Tax Climate index ranked PA's CNI 42nd worst in the nation. One of the commonly used indicators of a state's business climate is its corporate net income tax, and Pennsylvania's high tax

guarantees the state as a whole and virtually every region of the Commonwealth a very low ranking on many business climate indexes.

Pennsylvania's Corporate Net Income tax apportionment formula is also falling behind other competitor states. All states have formulas for determining how much of a multi-state company's income should be apportioned to that state. The formulas are based on a combination of sales, property, and payroll. Pennsylvania bases only 70% of its formula on sales, whereas a growing number of states base the formula solely on sales – what is called “a single sales factor” formula. This means that firms with plants and employees in Pennsylvania would save taxes if they move jobs out of Pennsylvania. The CNI apportionment formula penalizes Pennsylvania employers for expanding their physical presence and hiring employees because the Commonwealth includes property and payroll in the calculation.

Pennsylvania is one of a minority of states to impose a Capital Stock and Franchise Tax in addition to the Corporate Net Income Tax. Pennsylvania's combination of a high corporate net income tax and a capital stock and franchise tax makes the state doubly uncompetitive for businesses.

Pennsylvania is now one of only two states with a cap on net operating loss carryforwards which creates an uneven playing field for companies in cyclical industries that do business in Pennsylvania and retards development of potentially high-growth startup companies. Every state recognizes that if a business loses money one year, and makes money the next year, it is unfair to base its tax just on the year in which it is generating income. So states allow business to carry forward their operating losses from one year into future years. However, Pennsylvania limits the amount of losses a business can carry forward to \$2 million, while every other major state puts no limit on the carryforwards.

What does this all mean to Pennsylvania's economy? Pa's Gross Domestic Product grew at only half the rate of the U.S. average – 1.7% compared to 3.4%. Non-farm cumulative payroll employment growth lags significantly behind US trend – 2006: Pa. 1% v US 2.5%. The 2006 Gross State Product rate was ranked 42nd in the nation – Pa. lost over 182,000 individuals to other states. And, according to the Bureau of Labor Statistics Current Employment Statistics, Pennsylvania has been ranked in the bottom 10 of states in the country in terms of job growth for the past 15 years.

The business community is asking for reasonable changes that will allow the Commonwealth to compete successfully for new jobs and investment.

CompetePA, which is a coalition of businesses and organizations representing more than half the private sector employment, has been working since 2005 to solve the serious business tax competitiveness problems that are contributing to the low rate of job creation in Pennsylvania. CompetePA has been and continues to educate legislators about the need to eliminate the cap on net operating loss (NOL) carryforwards and to create a single sales factor apportionment formula (SSF). These steps are necessary to begin to close the gap with growing competitor states.

That being said, the General Assembly has before them proposals that will, if enacted, promote job growth and attract business investment. Initiatives in both Chambers of the General Assembly have been introduced with bi-partisan sponsorship. SB1229 (21 sponsors) and HB 2504 (135 sponsors) prime sponsored by Rep. Gerber and Turzai encompass these reforms. Also, the House (in a bi-partisan fashion) sent a strong message to the Governor (and the Senate for that matter) that they are serious about economic development and tax cuts by amending House Bill 377 to include provisions

for a SSF and uncapping the NOL carryforward along with many other tax reforms. We ask the House and Senate continue to move swiftly on these proposals.

This concludes my testimony. Again, thank you for the opportunity to appear before you today to discuss this very important issue.