Again, I am writing to express concerns with the immunity from local taxation and regulation provision in HB 2172 – Section 2002-A (c). We have three concerns with this broad provision and request that it be removed, allowing the status quo to continue.

First, we read it as a pre-emption of the ability of the local municipality to question, through the normal assessment appeals process, the for-profit use of a system owned property that is located off-campus. Why should a property with a for-profit use not be subject to property tax? Aside from not contributing to the tax base for services received, such for-profit businesses compete with local businesses that do pay taxes, thereby receiving a significant and unfair advantage. Conceivably, under this legislation, a university could buy properties off-campus for a mall, rent the space to retailers, and not have to pay taxes on a clearly for-profit enterprise. The ability to challenge the exempt status of such properties should not be squashed.

Furthermore, we disagree with the assertion that the language is simply a legal clarification. In 2014, the Commonwealth Court upheld an appeal by a local taxing authority of the use of university property as for-profit and therefore taxable. The Court affirmed the lower court’s finding that PASSHE carries out a function for the Commonwealth, but is not the Commonwealth; and therefore PASSHE property is not the sovereign Commonwealth (Indiana University of PA vs. Indiana County Board of Assessment Appeals).

Second, concerning storm water fees. Municipalities are faced with this expensive unfunded mandate from both the federal and state government. They have no choice, but to comply. If a community decides a fee on all properties is the best way a pay for this burden, the state’s property should not be off the table. Especially when other tax-exempt entities are expected to pay. Campus property is a significant portion of a host municipality. The resulting run-off from large amounts of impervious surface are currently the responsibility of the residents and businesses that either pay taxes or a storm water fee. The equitable sharing of this responsibility across all properties, must include all properties.
Third, the impact on other local regulations is not being considered with the immunity provision. Zoning, building code enforcement, rental inspections, public health, and quality of life ordinances, such as public urination and open container prohibitions are all currently being enforced to varying degrees across the system on both campus and off-campus properties. All will be pre-empted under our reading of this provision.

This immunity provision has broad and has lasting consequences for the municipalities hosting PASSHE schools. We ask for its removal.