

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1198** Session of
2015**Report of the Committee of Conference**

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 1198, entitled:

"An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties,' IN TAX FOR EDUCATION, FURTHER PROVIDING FOR CRIMES; AND, in corporate net income tax, providing for amended reports,"

respectfully submit the following bill as our report:

DAVE REED

WILLIAM F. ADOLPH, JR.

FRANK DERMODY

(Committee on the part of the House of Representatives.)

JAKE CORMAN

PATRICK M. BROWNE

VINCENT J. HUGHES

(Committee on the part of the Senate.)

*** This page intentionally left blank ***

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," as follows:

11 In sales and use tax:

12 further providing for definitions, for exclusions,
13 for discount and for crimes.

14 In personal income tax:

15 further providing for definitions, for classes of
16 income and for tax withheld;

17 providing for contributions for tuition account
18 programs; and

19 further providing for requirement of withholding tax,
20 for information statement, for time for filing employers'
21 returns, for payment of taxes withheld, for employer's
22 liability for withheld taxes, for employer's failure to
23 withhold, for declarations of estimated tax and for
24 citation authority.

25 In corporate net income tax:

26 further providing for reports and payment of tax;

27 providing for amended reports; and

28 further providing for enforcement, rules and
29 regulations and inquisitorial powers of the department.

30 In bank and trust company shares tax:

31 further providing for imposition, for ascertainment
32 of taxable amount and exclusion of United States
33 obligations, for apportionment and for definitions.

34 In gross receipts tax:

35 further providing for imposition.

36 In realty transfer tax:

37 further providing for definitions, for exempt parties
38 and for excluded transactions.

39 In cigarette tax:

40 further providing for incidence and rate, for floor
41 tax, for stamp as evidence, for commissions on sales and
42 for disposition of certain funds.

43 Imposing a tobacco products tax.

44 In research and development tax credit:

45 further providing for time limitations.

46 In film production tax credit:

47 making editorial changes;

48 further providing for definitions and for
49 limitations;

1 providing for reissuance of film production tax
2 credits, for concert rehearsal and tour; and
3 providing for video game production.
4 Establishing the coal refuse energy and reclamation tax
5 credit.
6 Establishing the waterfront development tax credit.
7 In tax credit for new jobs:
8 further providing for definitions and for tax
9 credits.
10 In city revitalization and improvement zones:
11 further providing for definitions and for
12 establishment of contracting authority;
13 providing for contracting authority duties;
14 further providing for approval, for functions of
15 contracting authorities, for qualified businesses, for
16 funds, for reports, for calculation of baseline, for
17 certification, for transfers, for restrictions, for
18 transfer of property, for Commonwealth pledges and for
19 guidelines; and
20 providing for review.
21 Establishing the Manufacturing and Investment Tax Credit.
22 In neighborhood assistance tax credit:
23 further providing for definitions, for tax credit and
24 for grant of tax credit.
25 In neighborhood improvement zones:
26 further providing for definitions and for funds; and
27 providing for taxes, for property assessment and for
28 exceptions.
29 In Keystone Special Development Zone Program:
30 further providing for tax credit.
31 Providing for keystone opportunity zones, keystone
32 opportunity expansion zones and keystone opportunity
33 improvement zones.
34 Providing for mixed-use development tax credit, the
35 Mixed-use Development Program and Mixed-use Development
36 Program Fund.
37 Providing for Keystone Innovation Zones.
38 In malt beverage tax:
39 further providing for limited tax credits.
40 In inheritance tax:
41 further providing for definitions, for transfers not
42 subject to tax and for deductions not allowed.
43 In procedure and administration:
44 further providing for petition procedure.
45 Providing for table game taxes.
46 Establishing the computer data center equipment incentive
47 program.
48 Providing for a tax amnesty program.
49 Making related repeals.
50 Further providing for preemption of local government tax.
51 Directing the Office of Attorney General to attempt to

1 obtain the consent of participating manufacturers under the
2 Master Settlement Agreement for amendments.

3 Providing for applicability for imposed taxes.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 201(k) (8), (m) and (o) (4) (B) of the act
7 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
8 1971, amended April 23, 1998 (P.L.239, No.45) and May 24, 2000
9 (P.L.106, No.23), are amended to read:

10 3731Section 201. Definitions.--The following words, terms
11 and phrases when used in this Article II shall have the meaning
12 ascribed to them in this section, except where the context
13 clearly indicates a different meaning:

14 * * *

15 (k) "Sale at retail."

16 * * *

17 (8) Any retention of possession, custody or a license to use
18 or consume tangible personal property or any further obtaining
19 of services described in subclauses (2), (3) and (4) of this
20 clause pursuant to a rental or service contract or other
21 arrangement (other than as security).

22 The term "sale at retail" shall not include (i) any such
23 transfer of tangible personal property or rendition of services
24 for the purpose of resale, or (ii) such rendition of services or
25 the transfer of tangible personal property including, but not
26 limited to, machinery and equipment and parts therefor and
27 supplies to be used or consumed by the purchaser directly in the
28 operations of--

29 (A) The manufacture of tangible personal property.

30 (B) Farming, dairying, agriculture, timbering, horticulture
31 or floriculture when engaged in as a business enterprise. The

1 term "farming" shall include the propagation and raising of
2 ranch raised fur-bearing animals and the propagation of game
3 birds for commercial purposes by holders of propagation permits
4 issued under 34 Pa.C.S. (relating to game) and the propagation
5 and raising of horses to be used exclusively for commercial
6 racing activities. The term "timbering" shall include:

7 (1) The business of producing or harvesting trees from
8 forests, woodlots or tree farms for the purpose of the
9 commercial production of wood, paper or energy products derived
10 from wood by a company primarily engaged in the business of
11 harvesting trees.

12 (2) All operations prior to the transport of the harvested
13 product necessary for the removal of timber or forest products
14 from the site, in-field processing of trees into logs or chips,
15 complying with environmental protection and safety requirements
16 applicable to the harvest of forest products, loading of forest
17 products onto highway vehicles for transport to storage or
18 processing facilities and postharvest site reclamation,
19 including those activities necessary to improve timber growth or
20 ensure natural or direct reforestation of the site. The term
21 shall not include the harvesting of trees for clearing land for
22 access roads.

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

27 (D) Processing as defined in clause (d) of this section.

28 The exclusions provided in paragraphs (A), (B), (C) and (D)
29 shall not apply to any vehicle required to be registered under
30 The Vehicle Code, except those vehicles used directly by a

1 public utility engaged in business as a common carrier; to
2 maintenance facilities; or to materials, supplies or equipment
3 to be used or consumed in the construction, reconstruction,
4 remodeling, repair or maintenance of real estate other than
5 directly used machinery, equipment, parts or foundations
6 therefor that may be affixed to such real estate.

7 The exclusions provided in paragraphs (A), (B), (C) and (D)
8 shall not apply to tangible personal property or services to be
9 used or consumed in managerial sales or other nonoperational
10 activities, nor to the purchase or use of tangible personal
11 property or services by any person other than the person
12 directly using the same in the operations described in
13 paragraphs (A), (B), (C) and (D) herein.

14 The exclusion provided in paragraph (C) shall not apply to
15 (i) construction materials, supplies or equipment used to
16 construct, reconstruct, remodel, repair or maintain facilities
17 not used directly by the purchaser in the production, delivering
18 or rendition of public utility service, (ii) construction
19 materials, supplies or equipment used to construct, reconstruct,
20 remodel, repair or maintain a building, road or similar
21 structure, or (iii) tools and equipment used but not installed
22 in the maintenance of facilities used directly in the
23 production, delivering or rendition of a public utility service.

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

29 * * *

30 (m) "Tangible personal property."

1 (1) Corporeal personal property including, but not limited
2 to, goods, wares, merchandise, steam and natural and
3 manufactured and bottled gas for non-residential use,
4 electricity for non-residential use, prepaid telecommunications,
5 premium cable or premium video programming service, spirituous
6 or vinous liquor and malt or brewed beverages and soft drinks,
7 interstate telecommunications service originating or terminating
8 in the Commonwealth and charged to a service address in this
9 Commonwealth, intrastate telecommunications service with the
10 exception of (i) subscriber line charges and basic local
11 telephone service for residential use and (ii) charges for
12 telephone calls paid for by inserting money into a telephone
13 accepting direct deposits of money to operate, provided further,
14 the service address of any intrastate telecommunications service
15 is deemed to be within this Commonwealth or within a political
16 subdivision, regardless of how or where billed or paid. In the
17 case of any such interstate or intrastate telecommunications
18 service, any charge paid through a credit or payment mechanism
19 which does not relate to a service address, such as a bank,
20 travel, credit or debit card, but not including prepaid
21 telecommunications, is deemed attributable to the address of
22 origination of the telecommunications service.

23 (2) The term shall include the following, whether
24 electronically or digitally delivered, streamed or accessed and
25 whether purchased singly, by subscription or in any other
26 manner, including maintenance, updates and support:

27 (i) video;

28 (ii) photographs;

29 (iii) books;

30 (iv) any other otherwise taxable printed matter;

1 (v) applications, commonly known as apps;
2 (vi) games;
3 (vii) music;
4 (viii) any other audio, including satellite radio service;
5 (ix) canned software, notwithstanding the function
6 performed; or
7 (x) any other otherwise taxable tangible personal property
8 electronically or digitally delivered, streamed or accessed.

9 * * *

10 (o) "Use."

11 * * *

12 (4) The obtaining by a purchaser of the service of
13 repairing, altering, mending, pressing, fitting, dyeing,
14 laundering, drycleaning or cleaning tangible personal property
15 other than wearing apparel or shoes or applying or installing
16 tangible personal property as a repair or replacement part of
17 other tangible personal property other than wearing apparel or
18 shoes, whether or not the services are performed directly or by
19 any means other than by means of coin-operated self-service
20 laundry equipment for wearing apparel or household goods, and
21 whether or not any tangible personal property is transferred to
22 the purchaser in conjunction therewith, except such services as
23 are obtained in the construction, reconstruction, remodeling,
24 repair or maintenance of real estate: Provided, however, That
25 this subclause shall not be deemed to impose tax upon such
26 services in the preparation for sale of new items which are
27 excluded from the tax under clause (26) of section 204, or upon
28 diaper service: And provided further, That the term "use" shall
29 not include--

30 * * *

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

6 (i) The manufacture of tangible personal property.

7 (ii) Farming, dairying, agriculture, timbering, horticulture
8 or floriculture when engaged in as a business enterprise. The
9 term "farming" shall include the propagation and raising of
10 ranch-raised furbearing animals and the propagation of game
11 birds for commercial purposes by holders of propagation permits
12 issued under 34 Pa.C.S. (relating to game) and the propagation
13 and raising of horses to be used exclusively for commercial
14 racing activities. The term "timbering" shall include:

15 (1) The business of producing or harvesting trees from
16 forests, woodlots or tree farms for the purpose of the
17 commercial production of wood, paper or energy products derived
18 from wood by a company primarily engaged in the business of
19 harvesting trees.

20 (2) All operations prior to the transport of the harvested
21 product necessary for the removal of timber or forest products
22 from the site, in-field processing of trees into logs or chips,
23 complying with environmental protection and safety requirements
24 applicable to the harvest of forest products, loading of forest
25 products onto highway vehicles for transport to storage or
26 processing facilities and postharvest site reclamation,
27 including those activities necessary to improve timber growth or
28 ensure natural or direct reforestation of the site. The term
29 shall not include the harvesting of trees for clearing land for
30 access roads.

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

5 (iv) Processing as defined in subclause (d) of this section.

6 The exclusions provided in subparagraphs (i), (ii), (iii) and
7 (iv) shall not apply to any vehicle required to be registered
8 under The Vehicle Code except those vehicles directly used by a
9 public utility engaged in the business as a common carrier; to
10 maintenance facilities; or to materials, supplies or equipment
11 to be used or consumed in the construction, reconstruction,
12 remodeling, repair or maintenance of real estate other than
13 directly used machinery, equipment, parts or foundations
14 therefor that may be affixed to such real estate. The exclusions
15 provided in subparagraphs (i), (ii), (iii) and (iv) shall not
16 apply to tangible personal property or services to be used or
17 consumed in managerial sales or other nonoperational activities,
18 nor to the purchase or use of tangible personal property or
19 services by any person other than the person directly using the
20 same in the operations described in subparagraphs (i), (ii),
21 (iii) and (iv).

22 The exclusion provided in subparagraph (iii) shall not apply
23 to (A) construction materials, supplies or equipment used to
24 construct, reconstruct, remodel, repair or maintain facilities
25 not used directly by the purchaser in the production, delivering
26 or rendition of public utility service or (B) tools and
27 equipment used but not installed in the maintenance of
28 facilities used directly in the production, delivering or
29 rendition of a public utility service.

30 The exclusion provided in subparagraphs (i), (ii), (iii) and

1 (iv) shall not apply to the services enumerated in clauses (o)
2 (9) through (16) and (w) through (kk), except that the exclusion
3 provided in subparagraph (ii) for farming, dairying and
4 agriculture shall apply to the service enumerated in clause (z).

5 * * *

6 Section 2. Section 204(13) of the act, amended July 2, 2012
7 (P.L.751, No.85), is amended and the section is amended by
8 adding a clause to read:

9 Section 204. Exclusions from Tax.--The tax imposed by
10 section 202 shall not be imposed upon any of the following:

11 * * *

12 (13) The sale at retail, or use of wrapping paper, wrapping
13 twine, bags, cartons, tape, rope, labels, nonreturnable
14 containers and all other wrapping supplies, when such use is
15 incidental to the delivery of any personal property, except that
16 any charge for wrapping or packaging shall be subject to tax at
17 the rate imposed by section 202, unless the property wrapped or
18 packaged will be resold by the purchaser of the wrapping or
19 packaging service. As used in this paragraph, the term "cartons"
20 includes corrugated boxes used by a person engaged in the
21 manufacture of snack food products to deliver the manufactured
22 product, whether or not the boxes are returnable for potential
23 reuse.

24 * * *

25 (70) The sale at retail or use of services related to the
26 set up, tear down or maintenance of tangible personal property
27 rented by an authority to exhibitors at a convention center or a
28 public auditorium, established under 64 Pa.C.S. Ch. 60 (relating
29 to Pennsylvania Convention Center Authority), the act of July
30 28, 1953 (P.L.723, No.230), known as the Second Class County

1 Code, or the act of August 9, 1955 (P.L.323, No.130), known as
2 The County Code.

3 Section 3. Section 227 of the act is amended to read:

4 Section 227. Discount.--If a return is filed by a licensee
5 and the tax shown to be due thereon less any discount is paid
6 all within the time prescribed, the licensee shall be entitled,
7 as compensation for the expense of collecting and remitting the
8 tax and as a consideration of the prompt payment of the tax, to
9 credit and apply against the tax payable by [him] the licensee a
10 discount of the lesser of:

11 (1) one per cent of the amount of the tax collected [by him
12 on and after the effective date of this article, as compensation
13 for the expense of collecting and remitting the same and as a
14 consideration of the prompt payment thereof.]; or

15 (2) as follows:

16 (i) twenty-five dollars (\$25) per return for a monthly
17 filer;

18 (ii) seventy-five dollars (\$75) per return for a quarterly
19 filer; or

20 (iii) one hundred fifty dollars (\$150) per return for a
21 semiannual filer.

22 Section 4. Section 268(b) of the act, amended June 29, 2002
23 (P.L.559, No.89), is amended and the section is amended by
24 adding a subsection to read:

25 Section 268. Crimes.--* * *

26 (b) Other Crimes. [(1)] Except as otherwise provided by
27 subsection (a) of this section, any person who advertises or
28 holds out or states to the public or to any purchaser or user,
29 directly or indirectly, that the tax or any part thereof imposed
30 by this article will be absorbed by such person, or that it will

1 not be added to the purchase price of the tangible personal
2 property or services described in subclauses (2), (3), (4) and
3 (11) through (18) of clause (k) of section 201 of this article
4 sold or, if added, that the tax or any part thereof will be
5 refunded, other than when such person refunds the purchase price
6 because of such property being returned to the vendor, and any
7 person selling or leasing tangible personal property or said
8 services the sale or use of which by the purchaser is subject to
9 tax hereunder, who shall wilfully fail to collect the tax from
10 the purchaser and timely remit the same to the department, and
11 any person who shall wilfully fail or neglect to timely file any
12 return or report required by this article or any taxpayer who
13 shall refuse to timely pay any tax, penalty or interest imposed
14 or provided for by this article, or who shall wilfully fail to
15 preserve his books, papers and records as directed by the
16 department, or any person who shall refuse to permit the
17 department or any of its authorized agents to examine his books,
18 records or papers, or who shall knowingly make any incomplete,
19 false or fraudulent return or report, or who shall do, or
20 attempt to do, anything whatever to prevent the full disclosure
21 of the amount or character of taxable sales purchases or use
22 made by himself or any other person, or shall provide any person
23 with a false statement as to the payment of tax with respect to
24 particular tangible personal property or said services, or shall
25 make, utter or issue a false or fraudulent exemption
26 certificate, shall be guilty of a misdemeanor, and, upon
27 conviction thereof, shall be sentenced to pay a fine not
28 exceeding one thousand dollars (\$1000) and costs of prosecution,
29 or undergo imprisonment not exceeding one year, or both:
30 Provided, however, That any person maintaining a place of

1 business outside this Commonwealth may absorb the tax with
2 respect to taxable sales made in the normal course of business
3 to customers present at such place of business without being
4 subject to the above penalty and fines: and Provided further,
5 That advertising tax-included prices shall be permissible, if
6 the prepaid services are sold by the service provider, for
7 prepaid telecommunications services not evidenced by the
8 transfer of tangible personal property or for prepaid mobile
9 telecommunications services.

10 [(2) The penalties imposed by this section shall be in
11 addition to any other penalties imposed by any provision of this
12 article.]

13 (c) (1) Notwithstanding any other provision of this part,
14 any person who purchases, installs or uses in this Commonwealth
15 an automated sales suppression device or zapper or phantomware
16 with the intent to defeat or evade the determination of an
17 amount due under this part commits a misdemeanor.

18 (i) Any person who, for commercial gain, sells, purchases,
19 installs, transfers or possesses in this Commonwealth an
20 automated sales suppression device or zapper or phantomware with
21 the knowledge that the sole purpose of the device is to defeat
22 or evade the determination of an amount due under this part
23 commits an offense which shall be punishable by a fine specified
24 under subparagraph (ii) or by imprisonment for not more than one
25 year, or by both. A person who uses an automated sales
26 suppression device or zapper or phantomware shall be liable for
27 all taxes, interest and penalties due as a result of the use of
28 that device.

29 (ii) If a person is guilty of an offense under this
30 paragraph and the person sold, installed, transferred or

1 possessed not more than three automated sales suppression
2 devices or zappers or phantomware, the person commits an offense
3 punishable by a fine of not more than five thousand dollars
4 (\$5,000).

5 (iii) If a person commits an offense under this paragraph
6 and the person sold, installed, transferred or possessed more
7 than three automated sales suppression devices or zappers or
8 phantomware, the person commits an offense punishable by a fine
9 of not more than ten thousand dollars (\$10,000).

10 (2) This subsection shall not apply to a corporation that
11 possesses an automated sales suppression device or zapper or
12 phantomware for the sole purpose of developing hardware or
13 software to combat the evasion of taxes by use of automated
14 sales suppression devices or zappers or phantomware.

15 (3) For purposes of this subsection:

16 "Automated sales suppression device" or "zapper" means a
17 software program carried on a memory stick or removable compact
18 disc, accessed through an Internet link or through any other
19 means, that falsifies the electronic records of electronic cash
20 registers and other point-of-sale systems, including, but not
21 limited to, transaction data and transaction reports.

22 "Electronic cash register" means a device that keeps a
23 register or supporting document through the means of an
24 electronic device or computer system designed to record
25 transaction data for the purpose of computing, compiling or
26 processing retail sales transaction data in whatever manner.

27 "Phantomware" means a hidden programming option, which is
28 either preinstalled or installed at a later time, embedded in
29 the operating system of an electronic cash register or hardwired
30 into the electronic cash register that can be used to create a

1 virtual second till or may eliminate or manipulate a transaction
2 record that may or may not be preserved in digital formats to
3 represent the true or manipulated record of transactions in the
4 electronic cash register.

5 "Transaction data" includes information regarding items
6 purchased by a customer, the price for each item, a taxability
7 determination for each item, a segregated tax amount for each of
8 the taxed items, the amount of cash or credit tendered, the net
9 amount returned to the customer in change, the date and time of
10 the purchase, the name, address and identification number of the
11 vendor and the receipt or invoice number of the transaction.

12 (d) This section shall not preclude prosecution under any
13 other law.

14 (e) The penalties imposed by this section shall be in
15 addition to any other penalties imposed by any provision of this
16 article.

17 Section 5. (Reserved).

18 Section 6. Section 301(k), (o) and (w) of the act, amended
19 March 13, 1974 (P.L.179, No.32), December 23, 1983 (P.L.370,
20 No.90) and December 23, 2003 (P.L.250, No.46), are amended to
21 read:

22 Section 301. Definitions.--Any reference in this article to
23 the Internal Revenue Code of 1986 shall mean the Internal
24 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.),
25 as amended to January 1, 1997, unless the reference contains the
26 phrase "as amended" and refers to no other date, in which case
27 the reference shall be to the Internal Revenue Code of 1986 as
28 it exists as of the time of application of this article. The
29 following words, terms and phrases when used in this article
30 shall have the meaning ascribed to them in this section except

1 where the context clearly indicates a different meaning:

2 * * *

3 (k) "Income from sources within this Commonwealth" for a
4 nonresident individual, estate or trust means the same as
5 compensation, net profits, gains, dividends, interest or income
6 enumerated and classified under section 303 of this article to
7 the extent that it is earned, received or acquired from sources
8 within this Commonwealth:

9 (1) By reason of ownership or disposition of any interest in
10 real or tangible personal property in this Commonwealth; or

11 (2) In connection with a trade, profession, occupation
12 carried on in this Commonwealth or for the rendition of personal
13 services performed in this Commonwealth; or

14 (3) As a distributive share of the income of an
15 unincorporated business, Pennsylvania S corporation, profession,
16 enterprise, undertaking or other activity as the result of work
17 done, services rendered or other business activities conducted
18 in this Commonwealth, except as allocated to another state
19 pursuant to regulations promulgated by the department under this
20 article; or

21 (4) From intangible personal property employed in a trade,
22 profession, occupation or business carried on in this
23 Commonwealth; or

24 (5) As gambling and lottery winnings by reason of a wager
25 placed in this Commonwealth, the conduct of a game of chance or
26 other gambling activity located in this Commonwealth or the
27 redemption of a lottery prize from a lottery conducted in this
28 Commonwealth, other than noncash prizes of the Pennsylvania
29 State Lottery.

30 Provided, however, That "income from sources within this

1 Commonwealth" for a nonresident individual, estate or trust
2 shall not include any items of income enumerated above received
3 or acquired from an investment company registered with the
4 Federal Securities and Exchange Commission under the Investment
5 Company Act of 1940.

6 * * *

7 (o) "Person" means any individual, employer, association,
8 fiduciary, partnership, corporation or other entity, estate or
9 trust, resident or nonresident, and the plural as well as the
10 singular number. For the purpose of determining eligibility for
11 special tax provisions, the term "person" means a natural
12 individual.

13 * * *

14 (w) "Taxpayer" means any individual, estate or trust subject
15 to the tax imposed by this article, any partnership having a
16 partner who is a taxpayer under this act, any Pennsylvania S
17 corporation having a shareholder who is a taxpayer under this
18 act and any [employer] person required to withhold tax [on
19 compensation paid] under this article.

20 Section 7. Section 303(a)(7) and (a.8) of the act, amended
21 or added July 21, 1983 (P.L.63, No.29) and July 9, 2013
22 (P.L.270, No.52), are amended and the section is amended by
23 adding a subsection to read:

24 Section 303. Classes of Income.--(a) The classes of income
25 referred to above are as follows:

26 * * *

27 (7) Gambling and lottery winnings other than noncash prizes
28 of the Pennsylvania State Lottery.

29 * * *

30 (a.8) A person who incurs intangible drilling and

1 development costs [shall capitalize the costs unless the
2 taxpayer elects to currently expense the costs for Federal
3 income tax purposes under] as defined in section 263(c) of the
4 Internal Revenue Code of 1986, as amended, and regulations
5 thereunder, is required to capitalize the costs and recover them
6 over a ten-year period in the taxable year the costs are
7 incurred; or a person may elect to currently expense up to one-
8 third of the costs in the taxable year in which the costs are
9 incurred and recover the remaining costs over a ten-year period
10 beginning in the taxable year the costs are incurred.

11 (a.9) The provisions of section 1033 of the Internal Revenue
12 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1033), as amended,
13 shall be applicable.

14 * * *

15 Section 8. Section 312 of the act, added August 31, 1971
16 (P.L.362, No.93), is amended to read:

17 Section 312. Tax Withheld.--The amount withheld under
18 section 316 shall be allowed to the [recipient of the
19 compensation] taxpayer from whose income the tax was withheld as
20 a credit against the tax imposed on him by this article.

21 Section 8.1. The act is amended by adding a section to read:

22 Section 315.12. Contributions for Tuition Account
23 Programs.--(a) Beginning with the 2016 Pennsylvania individual
24 income tax return, the department shall provide a space on the
25 income tax return form by which a taxpayer who is an account
26 owner may voluntarily designate a contribution to a
27 beneficiary's Tuition Account Guaranteed Savings Program or the
28 Tuition Account Investment Program established under the act of
29 April 3, 1992 (P.L.28, No.11), known as the "Tuition Account
30 Programs and College Savings Bond Act."

1 (b) The amount designated under subsection (a) by a taxpayer
2 on the income tax return form shall be deducted from the tax
3 refund to which the individual is entitled and shall not
4 constitute a charge against the income tax revenues due to the
5 Commonwealth.

6 (c) The department shall determine the amount designated
7 under this section and shall report the amount to the State
8 Treasurer, who shall transfer the amount from the General Fund
9 to the appropriate account within the Tuition Account Guaranteed
10 Savings Program or the Tuition Account Investment Program.

11 (d) For purposes of this section, the following words and
12 phrases shall have the meanings ascribed to them in this
13 subsection:

14 "Account owner." As defined in section 302 of the "Tuition
15 Account Programs and College Savings Bond Act."

16 "Beneficiary." As defined in section 302 of the "Tuition
17 Account Programs and College Savings Bond Act."

18 Section 9. Section 316 of the act, added August 31, 1971
19 (P.L.362, No.93), is amended to read:

20 Section 316. Requirement of Withholding Tax.--(a) Every
21 employer maintaining an office or transacting business within
22 this Commonwealth and making payment of compensation (i) to a
23 resident individual, or (ii) to a nonresident individual
24 taxpayer performing services on behalf of such employer within
25 this Commonwealth, shall deduct and withhold from such
26 compensation for each payroll period a tax computed in such
27 manner as to result, so far as practicable, in withholding from
28 the employe's compensation during each calendar year an amount
29 substantially equivalent to the tax reasonably estimated to be
30 due for such year with respect to such compensation. The method

1 of determining the amount to be withheld shall be prescribed by
2 regulations of the department.

3 (b) Whenever the Pennsylvania State Lottery or a person
4 making a Pennsylvania State Lottery prize payment in the form of
5 an annuity is required to withhold Federal income tax under
6 section 3402 of the Internal Revenue Code of 1986, as amended
7 (Public Law 99-514, 26 U.S.C. § 1 et seq.), or backup
8 withholding under section 3406 of the Internal Revenue Code of
9 1986, as amended, from a gambling or lottery prize payment
10 awarded by the Pennsylvania State Lottery that is taxable under
11 this article, the Pennsylvania State Lottery or the person
12 making the annuity payment shall deduct and withhold from the
13 prize payment an amount equal to the amount of the prize payment
14 subject to withholding under section 3402 or 3406 multiplied by
15 the tax rate in effect under this article at the time the prize
16 payment is made.

17 Section 10. Section 317 of the act, amended December 20,
18 1985 (P.L.489, No.115), is amended to read:

19 Section 317. Information Statement.--(a) Every employer
20 required to deduct and withhold tax under this article shall
21 furnish to each such employe to whom the employer has paid
22 compensation during the calendar year a written statement in
23 such manner and in such form as may be prescribed by the
24 department showing the amount of compensation paid by the
25 employer to the employe, the amount deducted and withheld as
26 tax, pursuant to this article, and such other information as the
27 department shall prescribe. Each statement required by this
28 section for a calendar year shall be furnished to the employe on
29 or before January 31 of the year succeeding such calendar year.
30 If the employe's employment is terminated before the close of

1 such calendar year, the employer, at his option, shall furnish
2 the statement to the employe at any time after the termination
3 but no later than January 31 of the year succeeding such
4 calendar year. However, if an employe whose employment is
5 terminated before the close of such calendar year requests the
6 employer in writing to furnish him the statement at an earlier
7 time, and, if there is no reasonable expectation on the part of
8 both employer and employe of further employment during the
9 calendar year, then the employer shall furnish the statement to
10 the employe on or before the later of the 30th day after the day
11 of the request or the 30th day after the day on which the last
12 payment of wages is made.

13 (b) Every person required to deduct and withhold tax under
14 section 316(b) of this article shall report the prize and the
15 amount of withholding to the taxpayer on Internal Revenue
16 Service Form W-2G, or similar form used for reporting Federal
17 income tax withholding from the prize.

18 Section 11. Section 318 of the act, added August 31, 1971
19 (P.L.362, No.93), is amended to read:

20 Section 318. Time for Filing [Employers'] Withholding
21 Returns.--(a) Every employer required to deduct and withhold
22 tax under this article shall file a quarterly withholding return
23 on or before the last day of April, July, October and January
24 for the three months ending the last day of March, June,
25 September and December. Such quarterly returns shall be filed
26 with the department at its main office or at any branch office
27 which it may designate for filing returns.

28 (b) Every person required to deduct and withhold tax under
29 section 316(b) shall file a withholding tax return at the same
30 time the person is required to file its annual return of

1 withheld Federal income tax (IRS Form 945) from nonpayroll
2 payments. The return shall be filed with the department.

3 Section 12. Section 319 of the act, amended October 9, 2009
4 (P.L.451, No.48), is amended to read:

5 Section 319. Payment of Taxes Withheld.--(a) Every employer
6 withholding tax under this article shall pay over to the
7 department or to a depository designated by it the tax required
8 to be deducted and withheld under this article.

9 (1) Where the aggregate amount required to be deducted and
10 withheld by any employer for a calendar year can reasonably be
11 expected to be less than twelve hundred dollars (\$1,200), such
12 employer shall file a return and pay the tax on or before the
13 last day for filing a quarterly return under section 318.

14 (2) Where the aggregated amount required to be deducted and
15 withheld by any employer for a calendar year can reasonably be
16 expected to be twelve hundred dollars (\$1,200) or more but less
17 than four thousand dollars (\$4,000), such employer shall pay the
18 tax monthly, on or before the fifteenth day of the month
19 succeeding the months of January to November, inclusive, and on
20 or before the last day of January following the month of
21 December.

22 (3) Where the aggregated amount required to be deducted and
23 withheld by any employer for a calendar year can reasonably be
24 expected to be four thousand dollars (\$4,000) or more but less
25 than twenty thousand dollars (\$20,000), such employer shall pay
26 the tax semi-monthly, within three banking days after the close
27 of the semi-monthly period.

28 (4) Where the aggregated amount required to be deducted and
29 withheld by any employer for a calendar year can reasonably be
30 expected to be twenty thousand dollars (\$20,000) or more, such

1 employer shall pay the tax on the Wednesday after payday if the
2 payday falls on a Wednesday, Thursday or Friday and on the
3 Friday after payday if the payday falls on a Saturday, Sunday,
4 Monday or Tuesday.

5 Notwithstanding anything in this [section] subsection to the
6 contrary, whenever any employer fails to deduct or truthfully
7 account for or pay over the tax withheld or file returns as
8 prescribed by this article, the department may serve a notice on
9 such employer requiring him to withhold taxes which are required
10 to be deducted under this article and deposit such taxes in a
11 bank approved by the department in a separate account in trust
12 for and payable to the department, and to keep the amount of
13 such tax in such account until payment over to the department.
14 Such notice shall remain in effect until a notice of
15 cancellation is served on the employer by the department.

16 (b) Every person deducting and withholding tax under section
17 316(b) shall remit the tax to the department on the same
18 frequency that the person is required to remit Federal income
19 tax withheld from nonpayroll payments.

20 Section 13. Sections 320 and 321 of the act, added August
21 31, 1971 (P.L.362, No.93), are amended to read:

22 Section 320. [Employer's] Liability for Withheld Taxes.--
23 Every [employer] person required to deduct and withhold tax
24 under this [article] part is hereby made liable for such tax.
25 For purposes of assessment and collection, any amount required
26 to be withheld and paid over to the department and any additions
27 to tax penalties and interest with respect thereto, shall be
28 considered the tax of the [employer] person. All taxes deducted
29 and withheld [from employes] pursuant to this [article] part or
30 under color of this article shall constitute a trust fund for

1 the Commonwealth and shall be enforceable against such
2 [employer] person, his representative or any other person
3 receiving any part of such fund.

4 Section 321. [Employer's] Failure to Withhold.--If [an
5 employer] a person fails to deduct and withhold tax as
6 prescribed [herein] in this part and thereafter the tax against
7 which such tax may be credited is paid, the tax which was
8 required to be deducted and withheld shall not be collected from
9 the [employer] person, but the [employer] person shall not be
10 relieved of the liability for any penalty, interest, or
11 additions to the tax imposed with respect to such failure to
12 deduct and withhold.

13 Section 14. Section 325(a) of the act, amended May 12, 1999
14 (P.L.26, No.4), is amended to read:

15 Section 325. Declarations of Estimated Tax.--(a) Every
16 resident and nonresident individual, trust and estate shall at
17 the time hereinafter prescribed make a declaration of his or its
18 estimated tax for the taxable year, containing such information
19 as the department may prescribe by regulations, if his or its
20 income, other than from [compensation] income on which tax is
21 withheld under this article, can reasonably be expected to
22 exceed eight thousand dollars (\$8,000).

23 * * *

24 Section 15. Section 352.2(a) of the act, added July 9, 2013
25 (P.L.270, No.52), is amended to read:

26 Section 352.2. Citation Authority.--(a) Notwithstanding any
27 other provision of this act, any person who does any of the
28 following commits a summary offense and, upon conviction, shall
29 be subject to the fines and penalties imposed under section
30 208(c):

1 (1) Does not pay [employer] withholding tax, interest or
2 penalty within ninety days after the due date, and the tax
3 liability due has not been timely appealed or subject to a duly
4 authorized deferred payment plan.

5 (2) Underpays [an employer] a withholding tax, interest or
6 penalty within ninety days after the due date, and the tax
7 liability due has not been timely appealed or subject to a duly
8 authorized deferred payment plan.

9 (3) Fails to file a tax [employer] withholding return or
10 report or any other reporting document within ninety days after
11 the due date of the applicable payment or return, report or any
12 other reporting document.

13 * * *

14 Section 15.1. (Reserved).

15 Section 15.2. Section 403(a) of the act, amended October 18,
16 2006 (P.L.1149, No.119), is amended to read:

17 Section 403. Reports and Payment of Tax.--(a) (1) It shall
18 be the duty of every corporation, liable to pay tax under this
19 article, [on or before April 15, 1972, and each year
20 thereafter,] to transmit to the department, upon a form
21 prescribed by the department, an annual report under oath or
22 affirmation of its president, vice-president, treasurer,
23 assistant treasurer or other authorized officers of net income
24 taxable under the provisions of this article[. Such report]:

25 (i) on or before April 15, 1972, and every April 15 of each
26 year thereafter through April 15, 2016; and

27 (ii) for taxable years beginning after December 31, 2015, on
28 or before thirty days after the return to the Federal Government
29 is due, or would be due were it to be required of such
30 corporation, subject in all other respects to the provisions of

1 this article.

2 (2) The report under paragraph (1) shall set forth:

3 [(1)] (i) A true copy of its return to the Federal
4 Government of the annual taxable income arising or accruing in
5 the calendar or fiscal year next preceding, or such part or
6 portions of said return, as the department may designate;

7 [(2)] (ii) If no return was filed with the Federal
8 Government the report made to the department shall show such
9 information as would have been contained in a return to the
10 Federal Government had one been made; and

11 [(3)] (iii) Such other information as the department may
12 require. Upon receipt of the report, the department shall
13 promptly forward to the Department of State, the names of the
14 president, vice-president, secretary and treasurer of the
15 corporation and the complete street address of the principal
16 office of the corporation for inclusion in the records of the
17 Department of State relating to corporation.

18 * * *

19 Section 15.3. The act is amended by adding a section to
20 read:

21 Section 406.1. Amended Reports.--(a) (1) Except as
22 provided under subsection (b) or section 406, a taxpayer may,
23 within three years after the due date of the original report,
24 including extensions, file an amended report on a form
25 prescribed by the department, under oath or affirmation, to
26 bring to the attention of the department a correction to the
27 original report and provide additional information that the
28 taxpayer requests the department to consider. An amended report
29 shall satisfy all the requirements of an original report.

30 (2) A taxpayer may file an amended report if a petition

1 raising other issues is pending at the administrative or
2 judicial appeal level.

3 (b) A taxpayer may not file an amended report:

4 (1) instead of a timely appeal of an assessment, except if a
5 taxpayer would be entitled to an adjustment of the taxpayer's
6 tax liability as defined by regulations of the department;

7 (2) if an administrative appeal board or court has
8 previously addressed an issue raised in an amended report on its
9 merits for that particular tax year; or

10 (3) that takes a position that is contrary to law or
11 published department policy.

12 (c) (1) Notwithstanding section 407.3, the filing of an
13 amended report shall extend the department's authority to adjust
14 a taxpayer's tax liability, including the assessment of
15 additional tax for the tax year to one year from the date of the
16 filing of the amended report or three years from the filing of
17 the original report, whichever period expires later.

18 (2) At any time before the expiration of the applicable
19 statute of limitations, a taxpayer may consent to extend the
20 period for the department to consider an amended report.

21 (3) A taxpayer shall maintain records until the end of the
22 extended assessment period.

23 (d) An amended report filed with the department must contain
24 the following:

25 (1) The calculation of the amended tax liability.

26 (2) Revised Pennsylvania supporting schedules, if
27 applicable.

28 (3) An explanation of the changes being made and the reason
29 for the changes.

30 (4) Other information that the department may request to

1 support the calculation of the amended tax liability.

2 (e) Where an amended report involving a tax year under
3 appeal has been filed after an administrative or judicial appeal
4 has been taken, the report shall be deemed a part of the
5 original annual report upon petition of the taxpayer at any
6 subsequent proceeding as though it had been filed with the
7 original report, and no separate appeal from an assessment
8 resulting from the report of change, correction or
9 redetermination shall be necessary to the extent the identical
10 issues for the taxable year have been raised in the appeal.

11 (f) (1) Unless the taxpayer has requested or consented to
12 an extension, the department shall review an amended report and
13 advise the taxpayer in writing within one year of the filing
14 date of the amended report whether the department accepts the
15 amended report. The notice shall provide an explanation of the
16 department's action.

17 (2) If the department fails to provide timely notice, the
18 amended report shall be deemed accepted as filed and the
19 department shall adjust its records accordingly.

20 (3) The acceptance of an amended report under this
21 subsection shall not limit the department's authority to issue
22 an assessment of additional tax as reported on the amended
23 report within the time period provided under subsection (c)(1).

24 (g) (1) A taxpayer who disagrees with the action of the
25 department may file a petition for review under section 2703(a)
26 (2.1) within ninety days of the mailing date of the written
27 notice required under subsection (f) except if:

28 (i) an amended report has been incorporated into an
29 administrative or judicial proceeding;

30 (ii) an amended report is filed instead of a petition for

1 reassessment; or

2 (iii) a timely filed amended report requesting a refund or
3 credit was filed more than three years from the date the tax was
4 paid.

5 (2) A taxpayer that is not permitted to file a petition for
6 review under paragraph (1)(ii) and that disagrees with the
7 action of the department may pay the tax, interest and penalty
8 due and file a petition for refund in accordance with section
9 3003.1.

10 Section 15.4. Section 408(b) of the act, amended October 18,
11 2006 (P.L.1149, No.119), is amended to read:

12 Section 408. Enforcement; Rules and Regulations;
13 Inquisitorial Powers of the Department.--* * *

14 (b) The department, or any agent authorized in writing by
15 it, is hereby authorized to examine the books, papers, and
16 records, and to investigate the character of the business of any
17 corporation in order to verify the accuracy of any report made,
18 or if no report was made by such corporation, to ascertain and
19 assess the tax imposed by this article. Every such corporation
20 is hereby directed and required to give to the department, or
21 its duly authorized agent, the means, facilities, and
22 opportunity for such examinations and investigations, as are
23 hereby provided and authorized. Any information gained by the
24 department, as a result of any returns, investigations, or
25 verifications required to be made by this article, shall be
26 confidential, except for official purposes, and any person
27 divulging such information shall be guilty of a misdemeanor,
28 and, upon conviction thereof, shall be sentenced to pay a fine
29 of not less than one hundred dollars (\$100) or more than one
30 thousand dollars (\$1,000) and costs of prosecution, or to

1 undergo imprisonment for not more than six months, or both.
2 Nothing in this section shall preclude the department from
3 providing public information, as defined in section [403(a)(3)]
4 403(a)(2)(iii), to other government units. Any identification
5 number provided by the department to another governmental unit
6 for governmental purposes shall continue to be confidential
7 information.

8 * * *

9 Section 15.5. Sections 701, 701.1 and 701.4(3)(xiii) of the
10 act, amended July 9, 2013 (P.L.270, No.52), are amended to read:

11 Section 701. Imposition of Tax.--(a) Every institution
12 doing business in this Commonwealth shall, on or before March 15
13 in each and every year, make to the Department of Revenue a
14 report in writing, verified as required by law, setting forth
15 the full number of shares of the capital stock subscribed for or
16 issued, as of the preceding January 1, by such institution, and
17 the taxable amount of such shares of capital stock determined
18 pursuant to section 701.1.

19 (b) It shall be the duty of the Department of Revenue to
20 assess such shares for the calendar years beginning January 1,
21 1971 through January 1, 1983, at the rate of fifteen mills and
22 for the calendar years beginning January 1, 1984 through January
23 1, 1988, at the rate of one and seventy-five one thousandths per
24 cent and for the calendar year beginning January 1, 1989, at the
25 rate of 10.77 per cent and for the calendar years beginning
26 January 1, 1990, through January 1, 2013, at the rate of 1.25
27 per cent and for the calendar [year] years beginning January 1,
28 2014, [and each calendar year thereafter at the rate of 0.89 per
29 cent] through January 1, 2016, at the rate of 0.89 per cent and
30 for the calendar year beginning January 1, 2017, and each

1 calendar year thereafter at the rate of 0.95 per cent upon each
2 dollar of taxable amount thereof, the taxable amount of each
3 share of stock to be ascertained and fixed pursuant to section
4 701.1, and dividing this amount by the number of shares.

5 (c) It shall be the duty of every institution doing business
6 in this Commonwealth, at the time of making every report
7 required by this section, to compute the tax and to pay the
8 amount of said tax to the State Treasurer, through the
9 Department of Revenue either from its general fund, or from the
10 amount of said tax collected from its shareholders. Provided,
11 That in case any institution shall collect, annually, from the
12 shareholders thereof said tax, according to the provisions of
13 this article, that have been subscribed for or issued, and pay
14 the same into the State Treasury, through the Department of
15 Revenue, the shares, and so much of the capital and profits of
16 such institution as shall not be invested in real estate, shall
17 be exempt from local taxation under the laws of this
18 Commonwealth; and such institution shall not be required to make
19 any report to the local assessor or county commissioners of its
20 personal property owned by it in its own right for purposes of
21 taxation and shall not be required to pay any tax thereon.

22 Section 701.1. Ascertainment of Taxable Amount; Exclusion of
23 United States Obligations.--(a) (1) The taxable amount of
24 shares shall be ascertained and fixed by the book value of total
25 bank equity capital as determined by the Reports of Condition at
26 the end of the preceding calendar year in accordance with the
27 requirements of the Board of Governors of the Federal Reserve
28 System, the Comptroller of the Currency, the Federal Deposit
29 Insurance Corporation or other applicable regulatory authority.

30 (2) If an institution does not file the Reports of

1 Condition, book values shall be determined by generally accepted
2 accounting principles as of the end of the preceding calendar
3 year.

4 (3) For institutions which file Reports of Condition on a
5 consolidated basis with subsidiaries formed pursuant to 12 U.S.
6 Code § 611 (relating to formation authorized; fiscal agents;
7 depositories in insular possessions), total bank equity capital
8 shall exclude the book value of total equity capital of the
9 subsidiaries in accordance with the following schedule:

10 (i) For the calendar year beginning January 1, 2018, the
11 exclusion for the book value of total equity capital of the
12 subsidiaries shall be limited to twenty per cent of the book
13 value of total equity capital of the subsidiaries.

14 (ii) For the calendar year beginning January 1, 2019, the
15 exclusion for the book value of total equity capital of the
16 subsidiaries shall be limited to forty per cent of the book
17 value of total equity capital of the subsidiaries.

18 (iii) For the calendar year beginning January 1, 2020, the
19 exclusion for the book value of total equity capital of the
20 subsidiaries shall be limited to sixty per cent of the book
21 value of total equity capital of the subsidiaries.

22 (iv) For the calendar year beginning January 1, 2021, the
23 exclusion for the book value of total equity capital of the
24 subsidiaries shall be limited to eighty per cent of the book
25 value of total equity capital of the subsidiaries.

26 (v) For the calendar year beginning January 1, 2022, and
27 each calendar year thereafter, the exclusion for the book value
28 of total equity capital of the subsidiaries shall be one hundred
29 per cent of the book value of total equity capital of the
30 subsidiaries.

1 (b) A deduction for the value of United States obligations
2 shall be provided from the taxable amount of shares in an amount
3 equal to the same percentage of total bank equity capital as the
4 book value of obligations of the United States bears to the book
5 value of the total assets[, except that, for the value of shares
6 reported on tax returns due on March 15, 2008, and thereafter].
7 In computing the deduction for United States obligations, any
8 goodwill recorded as a result of the use of purchase accounting
9 for an acquisition or combination as described in this section
10 and occurring after June 30, 2001, [may] shall be subtracted
11 from the book value of total bank equity capital and disregarded
12 in determining the deduction provided for obligations of the
13 United States. For purposes of this article, United States
14 obligations shall be obligations coming within the scope of 31
15 U.S.C. § 3124 (relating to exemption from taxation). [In the
16 case of institutions which do not file such Reports of
17 Condition, book values shall be determined by generally accepted
18 accounting principles as of the end of the preceding calendar
19 year.]

20 (b.1) A deduction for goodwill shall be provided from the
21 taxable amount of shares in an amount equal to the value of any
22 goodwill recorded as a result of the use of purchase accounting
23 for an acquisition or combination as described in this section
24 and occurring after June 30, 2001.

25 (c) For purposes of this section:

26 (1) a mere change in identity, form or place of organization
27 of one institution, however effected, shall be treated as if a
28 single institution had been in existence prior to as well as
29 after such change; and

30 (2) if there is a combination of two or more institutions

1 into one, the book values and deductions for United States
2 obligations from the Reports of Condition of the constituent
3 institutions shall be combined. For purposes of this section, a
4 combination shall include any acquisition required to be
5 accounted for by using the purchase method in accordance with
6 generally accepted accounting principles or a statutory merger
7 or consolidation.

8 Section 701.4. Apportionment.--An institution may apportion
9 its taxable amount of shares determined under section 701.1 in
10 accordance with this subsection if the institution is subject to
11 tax in another state based on or measured by net worth, gross
12 receipts, net income or some similar base of taxation, or if it
13 could be subject to such tax, whether or not such a tax has in
14 fact been enacted. The following shall apply:

15 * * *

16 (3) The receipts factor is a fraction, the numerator of
17 which is total receipts located in this Commonwealth and the
18 denominator of which is the total receipts located in all
19 states. The method of calculating receipts for purposes of the
20 denominator shall be the same as the method used in determining
21 receipts for purposes of the numerator. The location of receipts
22 shall be determined as follows:

23 * * *

24 (xiii) The following shall apply to receipts from an
25 institution's investment assets and activity and trading assets
26 and activity:

27 (A) Interest, dividends, net gains equal to zero or above,
28 and other income from investment assets and activities and from
29 trading assets and activities shall be included in the receipts
30 factor. Investment assets and activities and trading assets and

1 activities shall include investment securities, trading account
2 assets, Federal funds, securities purchased and sold under
3 agreements to resell or repurchase, options, futures contracts,
4 forward contracts and notional principal contracts such as
5 swaps, equities and foreign currency transactions. For the
6 investment and trading assets and activities under subclauses
7 (I) and (II), the receipts factor shall include the amounts
8 under subclauses (I) and (II). The following shall apply:

9 (I) The receipts factor shall include the amount by which
10 interest from Federal funds sold and securities purchased under
11 resale agreements exceeds interest expense on Federal funds
12 purchased and securities sold under repurchase agreements.

13 (II) The receipts factor shall include the amount by which
14 interest, dividends, gains and other income from investment and
15 trading assets and activities, including assets and activities
16 in the matched book, in the arbitrage book and foreign currency
17 transactions, exceed amounts paid in lieu of interest, amounts
18 paid in lieu of dividends and losses from the assets and
19 activities.

20 (B) The numerator of the receipts factor shall include
21 [interest, dividends, net gains, equal to zero or above, and
22 other income from investment assets and activities and from
23 trading assets and activities] the receipts under clause (A)
24 that are attributable to this Commonwealth using one of the
25 following alternative methods:

26 (I) Method 1. The numerator shall be determined by
27 multiplying the total amount of receipts [from trading assets
28 and activities] under clause (A) by a fraction, the numerator of
29 which is the total amount of all other receipts attributable to
30 this Commonwealth and the denominator of which is the total

1 amount of all other receipts.

2 (II) Method 2. The numerator shall be determined by
3 multiplying the total amount of receipts under clause (A) by a
4 fraction, the numerator of which is the average value of the
5 assets which generate the receipts which are properly assigned
6 to a regular place of business of the institution within this
7 Commonwealth and the denominator of which is the average value
8 of all such assets.

9 (C) Upon the election by the institution to use one of the
10 methods under clause (B) for tax imposed for a taxable year
11 beginning after December 31, 2016, the institution shall use the
12 method on all subsequent returns unless the institution receives
13 prior permission from the Department of Revenue to use a
14 different method.

15 (D) The following shall apply:

16 (I) An institution electing to use Method 2 shall have the
17 burden of proving that an investment asset or activity or
18 trading asset or activity was properly assigned to a regular
19 place of business outside of this Commonwealth by demonstrating
20 that the day-to-day decisions regarding the asset or activity
21 occurred at a regular place of business outside this
22 Commonwealth.

23 (II) If the day-to-day decisions regarding an investment
24 asset or activity or trading asset or activity occur at more
25 than one regular place of business and one regular place of
26 business is in this Commonwealth and one regular place of
27 business is outside this Commonwealth, the asset or activity
28 shall be considered to be located at the regular place of
29 business of the institution where the investment or trading
30 policies or guidelines with respect to the asset or activity are

1 established.

2 (III) Unless the institution demonstrates to the contrary,
3 the investment or trading policies and guidelines under
4 subclause (II) shall be presumed to be established at the
5 commercial domicile of the institution.

6 [(E) Receipts apportioned under this subparagraph shall be
7 separately apportioned for:

8 (I) interest, dividends, net gains and other income from
9 investment assets and activities in an investment account;

10 (II) interest from Federal funds sold and purchased and from
11 securities purchased under resale agreements and securities sold
12 under repurchase agreements; and

13 (III) interest, dividends, gains and other income from
14 trading assets and activities, including assets and activities
15 in the matched book, in the arbitrage book and foreign currency
16 transactions.]

17 * * *

18 Section 16. The definitions of "doing business in this
19 Commonwealth" and "receipts" in section 701.5 of the act,
20 amended July 9, 2013 (P.L.270, No.52), are amended to read:

21 Section 701.5. Definitions.--The following words, terms and
22 phrases when used in this article shall have the meaning
23 ascribed to them in this section, except where the context
24 clearly indicates a different meaning:

25 * * *

26 "Doing business in this Commonwealth." As follows:

27 (1) An institution is engaged in doing business in this
28 Commonwealth and is subject to the tax imposed under this
29 article if it satisfies any of the following requirements [and
30 generates gross receipts apportioned to this Commonwealth under

1 section 701.4 in excess of \$100,000]:

2 (i) The institution has an office or branch in this
3 Commonwealth.

4 (ii) One or more employes, representatives, independent
5 contractors or agents of the institution conduct business
6 activities of the institution in this Commonwealth.

7 (iii) A person, including an employe, representative,
8 independent contractor, agent or affiliate of the institution,
9 or an employe, representative, independent contractor or agent
10 of an affiliate of the institution, directly or indirectly
11 solicits business in this Commonwealth by or for the benefit of
12 the institution, through:

13 (A) person-to-person contact, mail, telephone or other
14 electronic means; or

15 (B) the use of advertising published, produced or
16 distributed in this Commonwealth.

17 (iv) The institution owns, leases or uses real or personal
18 property in this Commonwealth to conduct its business
19 activities.

20 (v) The institution holds a security interest, mortgage or
21 lien in real or personal property located in this Commonwealth.

22 (vi) A basis exists under section 701.4 to apportion the
23 institution's receipts to this Commonwealth.

24 (vii) The institution has a physical presence in this
25 Commonwealth for a period of more than one day during the tax
26 year or conducts an activity sufficient to create a nexus in
27 this Commonwealth for tax purposes under the Constitution of the
28 United States.

29 (2) The term shall not include:

30 (i) The use by the institution of a professional performing

1 a service on behalf of the institution in this Commonwealth if
2 the services are not significantly associated with the
3 institution's ability to establish and maintain a market in this
4 Commonwealth.

5 (ii) The mere use of financial intermediaries in this
6 Commonwealth by an institution for the processing or transfer of
7 checks, credit card receivables, commercial paper and similar
8 items.

9 * * *

10 "Receipts." [As follows:

11 (1) Except as provided under paragraph (2), an item included
12 in taxable income returned to and ascertained by the Federal
13 Government.

14 (2) If consolidated returns are filed with the Federal
15 Government, an item that would be included in taxable income
16 returned to and ascertained by the Federal Government if a
17 separate return had been made to the Federal Government by the
18 institution, including the taxable income of a subsidiary of the
19 institution that are disregarded entities for purposes of
20 Federal taxation.] The total of all items of income reported on
21 the income statement of the institution's Reports of Condition
22 at the end of the preceding calendar year. If the institution
23 does not file quarterly Reports of Condition, the term shall
24 include all items of income included on an income statement
25 determined in accordance with generally accepted accounting
26 principles for the preceding calendar year.

27 * * *

28 Section 16.1. Section 1101(b.1), (c), (c.1), (e) and (j) of
29 the act, amended or added October 9, 2009 (P.L.451, No.48), are
30 amended to read:

1 Section 1101. Imposition of Tax.--* * *

2 [(b.1) Managed Care Organizations.--Every managed care
3 organization now or hereafter incorporated or organized by or
4 under any law of the Commonwealth or a political subdivision
5 thereof, or now or hereafter organized or incorporated by any
6 other state or by the United States or any foreign government
7 and doing business in this Commonwealth that is a party to a
8 Medicaid managed care contract with the Department of Public
9 Welfare shall pay to the State Treasurer, through the Department
10 of Revenue, a tax of 59 mills upon each dollar of the gross
11 receipts received from payments pursuant to a Medicaid managed
12 care contract with the Department of Public Welfare through its
13 Medical Assistance Program under Subchapter XIX of the Social
14 Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.). This
15 subsection shall also apply to a Medicaid managed care
16 organization, as defined in section 1903(m)(1)(A) of the Social
17 Security Act (42 U.S.C. § 1396b(m)(1)(A)); to a county Medicaid
18 managed care organization; and to a permitted assignee of a
19 Medicaid managed care contract. This subsection shall not apply
20 to an assignor of a Medicaid managed care contract. The revenue
21 collected under this subsection shall be placed in a restricted
22 receipts account in the General Fund and is appropriated as an
23 augmentation to the capitation appropriation of the Department
24 of Public Welfare. If the Centers for Medicare and Medicaid
25 Services of the Department of Health and Human Services issues a
26 written determination of a deferral, disallowance or disapproval
27 of Federal financial participation on the grounds that the tax
28 imposed under this subsection constitutes an impermissible
29 health care-related tax under Subchapter XIX of the Social
30 Security Act, the Secretary of Public Welfare shall notify the

1 Secretary of Revenue of that determination. If notification is
2 made under this paragraph, the tax under this subsection shall
3 cease to be imposed after the last day of the month in which
4 notification is made.]

5 (c) Payment of Tax; Reports.--The said taxes imposed under
6 subsections (a) [, (b) and (b.1)] and (b) shall be paid within
7 the time prescribed by law, and for the purpose of ascertaining
8 the amount of the same, it shall be the duty of the treasurer or
9 other proper officer of the said company, copartnership, limited
10 partnership, association, joint-stock association or
11 corporation, or person or persons, to transmit to the Department
12 of Revenue on or before March 15 of each year an annual report,
13 and under oath or affirmation, of the amount of gross receipts
14 of the said companies, copartnerships, corporations,
15 associations, joint-stock associations, limited partnerships,
16 person or persons, derived from all sources, and of gross
17 receipts from business done wholly within this State and in the
18 case of electric energy producers that transmit energy to other
19 states referred to in clause (2) of subsection (b), a
20 compilation of the relevant information regarding operating and
21 maintenance expenses and depreciation, during the period of
22 twelve months immediately preceding January 1 of each year.

23 (c.1) Safe Harbor Base year.--For purposes of the estimated
24 tax requirements under sections 3003.2 and 3003.3, the "safe
25 harbor base year" tax amount for providers of mobile
26 telecommunications services [and for a managed care organization
27 subject to the provisions of subsection (b.1)] shall be the
28 amount that would have been required to be paid by the taxpayer
29 if the taxpayer had been subject to this article.

30 (e) Time to File Reports.--The time for filing annual

1 reports may be extended, estimated assessments may be made by
2 the Department of Revenue if reports are not filed, and the
3 penalties for failing to file reports and pay the taxes imposed
4 under subsection (a) [, (b) and (b.1)] and (b) shall be as
5 prescribed by the laws defining the powers and duties of the
6 Department of Revenue. In any case where the works of any
7 corporation, company, copartnership, association, joint-stock
8 association, limited partnership, person or persons are operated
9 by another corporation, company, copartnership, association,
10 joint-stock association, limited partnership, person or persons,
11 the taxes imposed under subsections (a) [, (b) and (b.1)] and (b)
12 shall be apportioned between the corporations, companies,
13 copartnerships, associations, joint-stock associations, limited
14 partnerships, person or persons in accordance with the terms of
15 their respective leases or agreements, but for the payment of
16 the said taxes the Commonwealth shall first look to the
17 corporation, company, copartnership, association, joint-stock
18 association, limited partnership, person or persons operating
19 the works, and upon payment by the said company, corporation,
20 copartnership, association, joint-stick association, limited
21 partnership, person or persons of a tax upon the receipts, as
22 herein provided, derived from the operation thereof, no other
23 corporation, company, copartnership, association, joint-stock
24 association, limited partnership, person or persons shall be
25 held liable for any tax imposed under subsections (a) [, (b) and
26 (b.1)] and (b) upon the proportion of said receipts received by
27 said corporation, company, copartnership, association, joint-
28 stock association, limited partnership, person or persons for
29 the use of said works.

30 * * *

1 (j) Schedule for Estimated Payments.--

2 (1) For calendar year 2004, the following schedule applies
3 to the payment of the tax under subsection (a)(3):

4 (i) Forty per cent of the estimated tax shall be due on
5 March 15, 2004.

6 (ii) Forty per cent of the estimated tax shall be due on
7 June 15, 2004.

8 (iii) Twenty per cent of the estimated tax shall be due on
9 September 15, 2004.

10 (2) For calendar years after 2004, the payment of the
11 estimated tax under subsection (a)(3) shall be due in accordance
12 with section 3003.2.

13 [(3) For calendar year 2009, the tax applicable to the
14 payment of the tax under subsection (b.1) shall be due on March
15 15, 2010.

16 (4) For calendar year 2010, payments of the estimated tax
17 under subsection (b.1) shall be due on May 15, 2010. For
18 calendar year 2011 and each calendar year thereafter, the
19 payment of the estimated tax under subsection (b.1) shall be due
20 in accordance with section 3003.2.]

21 * * *

22 Section 16.2. (Reserved).

23 Section 16.3. Section 1101-C of the act is amended by adding
24 definitions to read:

25 Section 1101-C. Definitions.--The following words when used
26 in this article shall have the meanings ascribed to them in this
27 section:

28 * * *

29 "Conservancy." A corporation or association that possesses a
30 tax-exempt status pursuant to section 501(c)(3) of the Internal

1 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3))
2 and which has as its primary purpose preservation of land for
3 historic, recreational, scenic, agricultural or open-space
4 opportunities.

5 * * *

6 "Veterans' organization." A not-for-profit organization that
7 is recognized by the Internal Revenue Service as a tax exempt
8 organization described under section 501(c)(19) of the Internal
9 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)
10 (19)). For the purposes of this article, the term shall only
11 include a not-for-profit organization for the period in which
12 the organization has a valid tax exemption under section 501(c)
13 (19) of the Internal Revenue Code of 1986, as determined by the
14 Internal Revenue Service.

15 * * *

16 Section 16.4. Section 1102-C.2 of the act, added July 2,
17 1986 (P.L.318, No.77), is amended to read:

18 Section 1102-C.2. Exempt Parties.--The United States, the
19 Commonwealth or any of their instrumentalities, agencies or
20 political subdivisions, or veterans' organizations shall be
21 exempt from payment of the tax imposed by this article. The
22 exemption [of such governmental bodies] under this section shall
23 not, however, relieve any other party to a transaction from
24 liability for the tax.

25 Section 16.5. Section 1102-C.3(18) of the act, amended May
26 7, 1997 (P.L.85, No.7), is amended and the section is amended by
27 adding a paragraph to read:

28 Section 1102-C.3. Excluded Transactions.--The tax imposed by
29 section 1102-C shall not be imposed upon:

30 * * *

1 (18) Any of the following:

2 (i) A transfer to a conservancy, [which possesses a tax-
3 exempt status pursuant to section 501(c)(3) of the Internal
4 Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c)(3)) and
5 which has as its primary purpose preservation of land for
6 historic, recreational, scenic, agricultural or open-space
7 opportunities; or a]

8 (ii) A transfer from [such] a conservancy to the United
9 States, the Commonwealth or to any of their instrumentalities,
10 agencies or political subdivisions[; or any].

11 (iii) A transfer from [such] a conservancy where the real
12 estate is encumbered by a perpetual agricultural conservation
13 easement as defined by the act of June 30, 1981 (P.L.128,
14 No.43), known as the "Agricultural Area Security Law," and such
15 conservancy has owned the real estate for at least two years
16 immediately prior to the transfer.

17 (iv) A transfer of an agricultural conservation easement to
18 or from the Commonwealth, a county, a local government unit or a
19 conservancy under authority of the "Agricultural Area Security
20 Law."

21 (v) A transfer of a conservation easement or preservation
22 easement under the act of June 22, 2001 (P.L.390, No.29), known
23 as the "Conservation and Preservation Easements Act."

24 (vi) A transfer of a perpetual historic preservation
25 easement, a perpetual public trail easement or other perpetual
26 public recreational use easement, a perpetual scenic
27 preservation easement or a perpetual open-space preservation
28 easement to or from the United States, the Commonwealth, a
29 county, a local government unit or a conservancy.

30 * * *

1 (24) A transfer of real estate to or by a land bank. For the
2 purposes of this clause, the term "land bank" shall have the
3 same meaning as given to it in 68 Pa.C.S. § 2103 (relating to
4 definitions).

5 Section 17. Sections 1206, 1206.1(a), 1215(g) and 1216 of
6 the act, amended October 9, 2009 (P.L.451, No.48), are amended
7 to read:

8 Section 1206. Incidence and Rate of Tax.--An excise tax is
9 hereby imposed and assessed upon the sale or possession of
10 cigarettes within this Commonwealth at the rate of [eight]
11 thirteen cents per cigarette.

12 Section 1206.1. Floor Tax.--(a) The following apply:

13 [(1) A person who possesses cigarettes on which the tax
14 imposed by section 1206 has been paid as of the effective date
15 of this section shall pay an additional tax at a rate of one and
16 twenty-five hundredths cents per cigarette. The tax shall be
17 paid and reported on a form prescribed by the department within
18 ninety days of the effective date of this section.

19 (2) On or after the effective date of this paragraph, a
20 person that possesses little cigars in a package which is
21 similar to a package of cigarettes other than little cigars and
22 which contains twenty to twenty-five little cigars shall pay a
23 tax at the rate of eight cents per little cigar. The tax shall
24 be paid and reported on a form prescribed by the department
25 within ninety days of the effective date of this paragraph.

26 (3) After January 3, 2010, a retailer that possesses little
27 cigars on which the tax imposed by this article has not been
28 paid shall pay a tax at the rate of eight cents per little
29 cigar. The tax shall be paid and reported on a form prescribed
30 by the department within ninety days of the effective date of

1 this paragraph.]

2 (4) A person who possesses cigarettes on which the tax
3 imposed by section 1206 has been paid as of the effective date
4 of this paragraph shall pay an additional tax at a rate of five
5 cents per cigarette. The tax shall be paid and reported on a
6 form prescribed by the department within ninety days of the
7 effective date of this paragraph.

8 * * *

9 Section 1215. Stamp to Evidence the Tax.--* * *

10 (g) Stamps shall be affixed to all individual packages
11 containing from twenty to twenty-five cigarettes. Individual
12 packages containing less than twenty or more than twenty-five
13 cigarettes shall have stamps affixed unless the department
14 determines the affixing of stamps is physically impractical due
15 to the size or nature of the package or determines that the cost
16 of affixing the stamps is unreasonably disproportionate to the
17 tax to be collected. Stamps shall not be required to be affixed
18 to containers of roll-your-own tobacco.

19 * * *

20 Section 1216. Commissions on Sales.--A cigarette stamping
21 agent shall be entitled to a commission for the agent's services
22 and expenses in affixing cigarette tax stamps. The commission
23 shall be equal to [eighty-seven hundredths] five hundred eighty-
24 six thousandths per cent of the total value of Pennsylvania
25 cigarette tax stamps purchased by the agent from the department
26 or its authorized agents to be used in the stamping of unstamped
27 cigarettes for sale within this Commonwealth. The cigarette
28 stamping agent may deduct from the moneys to be paid to the
29 department or its authorized agents for the stamps an amount
30 equal to [eighty-seven hundredths] five hundred eighty-six

1 thousandths per cent of the value of the stamps purchased. This
2 section shall not apply to purchases of stamps by a cigarette
3 stamping agent in an amount less than one hundred dollars
4 (\$100).

5 Section 17.1. Section 1296 of the act, amended June 29, 2002
6 (P.L.559, No.89), is amended to read:

7 Section 1296. Disposition of Certain Funds.--[Receipts from
8 the tax imposed by this article shall be deposited into the
9 General Fund. Twenty million four hundred eighty-five thousand
10 dollars (\$20,485,000) of the receipts deposited into the General
11 Fund in accordance with this section shall be transferred
12 annually to the Agricultural Conservation Easement Purchase
13 Fund. Thirty million seven hundred thirty thousand dollars
14 (\$30,730,000) of the receipts deposited into the General Fund in
15 accordance with this section shall be transferred annually to
16 the Children's Health Fund for health care for indigent
17 children. The transfers required by this section shall be made
18 in two equal payments by July 15 and January 15.]

19 (a) Receipts from the tax imposed under this article shall
20 be deposited into the General Fund and used as follows:

21 (1) Twenty-five million four hundred eighty-five thousand
22 dollars (\$25,485,000) shall be transferred annually to the
23 Agricultural Conservation Easement Purchase Fund.

24 (2) Thirty million seven hundred thirty thousand dollars
25 (\$30,730,000) shall be transferred annually to the Children's
26 Health Fund for health care for uninsured children.

27 (3) For the payments required under subsection (c).

28 (b) The transfers required under subsection (a) (1) and (2)
29 shall be made in two equal payments by July 15 and January 15.

30 (c) For any fiscal year after the effective date of this

1 subsection in which the revenue deposited into the Local
2 Cigarette Tax Fund from an excise tax imposed and assessed upon
3 the sale or possession of cigarettes within a school district
4 that is coterminous with a city of the first class is less than
5 fifty eight million dollars (\$58,000,000), the State Treasurer
6 shall transfer receipts deposited into the General Fund in
7 accordance with this section to the Local Cigarette Tax Fund in
8 an amount equal to the difference between the revenue deposited
9 during the fiscal year and fifty eight million dollars
10 (\$58,000,000) to be disbursed as provided under 53 Pa.C.S. §
11 8722(i) (relating to local option cigarette tax in school
12 districts of the first class). The Secretary of Revenue shall
13 determine the amount to be transferred. The transfers required
14 under this subsection shall be made annually by July 15.

15 Section 18. The act is amended by adding an article to read:

16 ARTICLE XII-A
17 TOBACCO PRODUCTS TAX

18 Section 1201-A. Definitions.

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

22 "Cigar." Any roll for smoking that weighs more than four
23 pounds per thousand and the wrapper or cover is made of natural
24 leaf tobacco or of any substance containing tobacco.

25 "Cigarette." As defined in section 1201.

26 "Consumer." An individual who purchases tobacco products for
27 personal use and not for resale.

28 "Contraband." Any tobacco product for which the tax imposed
29 by this article has not been paid.

30 "Dealer." A wholesaler or retailer. Nothing in this article

1 shall preclude any person from being a wholesaler or retailer,
2 provided the person meets the requirements for a license in each
3 category of dealer.

4 "Department." The Department of Revenue of the Commonwealth.

5 "Electronic cigarettes." As follows:

6 (1) An electronic oral device, such as one composed of a
7 heating element and battery or electronic circuit, or both,
8 which provides a vapor of nicotine or any other substance and
9 the use or inhalation of which simulates smoking.

10 (2) The term includes:

11 (i) A device as described in paragraph (1),
12 notwithstanding whether the device is manufactured,
13 distributed, marketed or sold as an e-cigarette, e-cigar
14 and e-pipe or under any other product, name or
15 description.

16 (ii) A liquid or substance placed in or sold for use
17 in an electronic cigarette.

18 "Manufacturer." A person that produces tobacco products.

19 "Person." An individual, unincorporated association,
20 company, corporation, joint stock company, group, agency,
21 syndicate, trust or trustee, receiver, fiduciary, partnership,
22 conservator, any political subdivision of the Commonwealth or
23 any other state. If used in any of the provisions of this
24 article prescribing or imposing penalties, the term "person" as
25 applied to a partnership, unincorporated association or other
26 joint venture, shall mean the partners or members of the
27 partnership, unincorporated association or other joint venture,
28 and as applied to a corporation, shall mean each officer and
29 director of the corporation.

30 "Purchase price." The total value of anything paid or

1 delivered, or promised to be paid or delivered, money or
2 otherwise, in complete performance of a sale or purchase,
3 without any deduction on account of the cost or value of the
4 property sold, cost or value of transportation, cost or value of
5 labor or service, interest or discount paid or allowed after the
6 sale is consummated, any other taxes imposed by the Commonwealth
7 or any other expense.

8 "Retailer." A person that purchases or receives tobacco
9 products from any source for the purpose of sale to a consumer,
10 or who owns, leases or otherwise operates one or more vending
11 machines for the purpose of sale of tobacco products to the
12 ultimate consumer. The term includes a vending machine operator
13 or a person that buys, sells, transfers or deals in tobacco
14 products and is not licensed as a tobacco products wholesaler
15 under this article.

16 "Roll-your-own tobacco." Any tobacco which, because of the
17 tobacco's appearance, type, packaging or labeling, is suitable
18 for use and is likely to be offered to, or purchased by,
19 consumers as tobacco for making cigarettes.

20 "Sale." Any transfer of ownership, custody or possession of
21 tobacco products for consideration; any exchange, barter or
22 gift; or any offer to sell or transfer the ownership, custody or
23 possession of tobacco products for consideration.

24 "Taxpayer." Any person subject to tax under this article.

25 "Tobacco products." As follows:

26 (1) Electronic cigarettes.

27 (2) Roll-your-own tobacco.

28 (3) Periques, granulated, plug cut, crimp cut, ready

29 rubbed and other smoking tobacco, snuff, dry snuff, snuff

30 flour, cavendish, plug and twist tobacco, fine-cut and other

1 chewing tobaccos, shorts, refuse scraps, clippings, cuttings
2 and sweepings of tobacco and other kinds and forms of
3 tobacco, prepared in such manner as to be suitable for
4 chewing or ingesting or for smoking in a pipe or otherwise,
5 or any combination of chewing, ingesting or smoking.

6 (4) The term does not include:

7 (i) Any item subject to the tax under section 1206.

8 (ii) Cigars.

9 "Unclassified importer." A consumer who purchases tobacco
10 products using the Internet or mail order catalogs for personal
11 possession or use in this Commonwealth from persons that are not
12 licensed.

13 "Vending machine operator." A person who places or services
14 one or more tobacco product vending machines whether owned,
15 leased or otherwise operated by the person at locations from
16 which tobacco products are sold to the consumer. The owner or
17 tenant of the premises upon which a vending machine is placed
18 shall not be considered a vending machine operator if the
19 owner's or tenant's sole remuneration therefrom is a flat rental
20 fee or commission based upon the number or value of tobacco
21 products sold from the machine, unless the owner or tenant
22 actually owns the vending machine or leases the vending machine
23 under an agreement whereby any profits from the sale of the
24 tobacco products directly inure to the owner's or tenant's
25 benefit.

26 "Wholesaler." A person engaged in the business of selling
27 tobacco products that receives, stores, sells, exchanges or
28 distributes tobacco products to retailers or other wholesalers
29 in this Commonwealth or retailers who purchase from a
30 manufacturer or from another wholesaler who has not paid the tax

1 imposed by this article.

2 Section 1202-A. Incidence and rate of tax.

3 (a) Imposition of tax on certain tobacco products.--A

4 tobacco products tax is imposed on the dealer or manufacturer at
5 the time the tobacco product is first sold to a retailer in this
6 Commonwealth at the rate of 55¢ per ounce for the purchase of
7 any tobacco product other than electronic cigarettes. The tax
8 rate shall include a proportionate tax at the rate of 55¢ per
9 ounce on all fractional parts of an ounce. The tax imposed on
10 tobacco products other than electronic cigarettes that weigh
11 less than 1.2 ounces per container is equal to the amount of the
12 tax imposed on tobacco products other than electronic cigarettes
13 that weigh 1.2 ounces. The tax shall be collected from the
14 retailer by whomever sells the tobacco product to the retailer
15 and remitted to the department. Any person required to collect
16 this tax shall separately state the amount of tax on an invoice
17 or other sales document.

18 (a.1) Imposition of tax on electronic cigarettes.--A tobacco
19 products tax is imposed on the dealer or manufacturer at the
20 time the electronic cigarette is first sold to a retailer in
21 this Commonwealth at the rate of 40% on the purchase price
22 charged to the retailer for the purchase of electronic
23 cigarettes. The tax shall be collected for the retailer by
24 whomever sells the electronic cigarette to the retailer and
25 remitted to the department. Any person required to collect this
26 tax shall separately state the amount of tax on an invoice or
27 other sales document.

28 (b) Retailer.--A retailer may only purchase tobacco products
29 from a licensed dealer. If the tax is not collected by the
30 seller from the retailer, the tax is imposed on the retailer at

1 the time of purchase at the same rate as in subsections (a) and
2 (a.1) based on the retailer's purchase price of the tobacco
3 products. The retailer shall remit the tax to the department.

4 (c) Unclassified importer.--The tax is imposed on an
5 unclassified importer at the time of purchase at the same rate
6 as in subsections (a) and (a.1) based on the unclassified
7 importer's purchase price of the tobacco products. The
8 unclassified importer shall remit the tax to the department.

9 (d) Exceptions.--The tax shall not be imposed on any tobacco
10 products that:

11 (1) are exported for sale outside this Commonwealth; or

12 (2) are not subject to taxation by the Commonwealth
13 pursuant to any laws of the United States.

14 Section 1203-A. Floor tax.

15 (a) Payment.--

16 (1) Any retailer that, as of the effective date of this
17 paragraph, possesses tobacco products subject to the tax
18 imposed by section 1202-A other than roll-your-own tobacco
19 shall pay the tax in accordance with the rates specified in
20 section 1202-A. The tax shall be paid and reported on a form
21 prescribed by the department within 90 days of the effective
22 date of this paragraph.

23 (2) Any retailer that, as of the effective date of this
24 paragraph, possesses roll-your-own tobacco subject to the tax
25 imposed by section 1202-A shall pay the tax in accordance
26 with the rates specified in section 1202-A. The tax shall be
27 paid and reported on a form prescribed by the department
28 within 90 days of the effective date of this paragraph.

29 (b) Administrative penalty; license.--If a retailer fails to
30 file the report required by subsection (a) or fails to pay the

1 tax imposed by subsection (a), the department may, in addition
2 to the interest and penalties provided in section 1215-A, do any
3 of the following:

4 (1) Impose an administrative penalty equal to the amount
5 of tax evaded or not paid. The penalty shall be added to the
6 tax evaded or not paid and assessed and collected at the same
7 time and in the same manner as the tax.

8 (2) Suspend, revoke or refuse to issue the retailer's
9 license.

10 (c) Criminal penalty.--In addition to any penalty imposed
11 under subsection (b), a person that willfully omits, neglects or
12 refuses to comply with a duty imposed under subsection (a)
13 commits a misdemeanor and shall, if convicted, be sentenced to
14 pay a fine of not less than \$2,500 nor more than \$5,000, to
15 serve a term of imprisonment not to exceed 30 days, or both.

16 Section 1204-A. Remittance of tax to department.

17 Wholesalers, retailers, unclassified importers and
18 manufacturers shall file monthly reports on a form prescribed by
19 the department by the 20th day of the month following the sale
20 or purchase of tobacco products from any other source on which
21 the tax levied by this article has not been paid. The tax is due
22 at the time the report is due. The department may require the
23 filing of reports and payment of tax on a less frequent basis at
24 its discretion.

25 Section 1205-A. (Reserved).

26 Section 1206-A. Procedures for claiming refund.

27 A claim for a refund of tax imposed by this article under
28 section 3003.1 and Article XXVII shall be in the form and
29 contain the information prescribed by the department by
30 regulation.

1 Section 1207-A. Sales or possession of tobacco product when tax
2 not paid.

3 (a) Sales or possession.--Any person who sells or possesses
4 any tobacco product for which the proper tax has not been paid
5 commits a summary offense and shall, upon conviction, be
6 sentenced to pay costs of prosecution and a fine of not less
7 than \$100 nor more than \$1,000 or to imprisonment for not more
8 than 60 days, or both, at the discretion of the court. Any
9 tobacco products purchased from a wholesaler properly licensed
10 under this article shall be presumed to have the proper taxes
11 paid.

12 (b) Tax evasion.--Any person that shall falsely or
13 fraudulently, maliciously, intentionally or willfully with
14 intent to evade the payment of the tax imposed by this article
15 sells or possesses any tobacco product for which the proper tax
16 has not been paid commits a felony and shall, upon conviction,
17 be sentenced to pay costs of prosecution and a fine of not more
18 than \$5,000 or to imprisonment for not more than five years, or
19 both, at the discretion of the court.

20 Section 1208-A. Assessment.

21 The department is authorized to make the inquiries,
22 determinations and assessments of the tax, including interest,
23 additions and penalties, imposed by this article.

24 Section 1209-A. (Reserved).

25 Section 1210-A. (Reserved).

26 Section 1211-A. Failure to file return.

27 Where no return is filed, the amount of the tax due may be
28 assessed and collected at any time as to taxable transactions
29 not reported.

30 Section 1212-A. False or fraudulent return.

1 Where the taxpayer willfully files a false or fraudulent
2 return with intent to evade the tax imposed by this article, the
3 amount of tax due may be assessed and collected at any time.
4 Section 1213-A. Extension of limitation period.

5 Notwithstanding any other provision of this article, where,
6 before the expiration of the period prescribed for the
7 assessment of a tax, a taxpayer has consented, in writing, that
8 the period be extended, the amount of tax due may be assessed at
9 any time within the extended period. The period so extended may
10 be extended further by subsequent consents, in writing, made
11 before the expiration of the extended period.

12 Section 1214-A. Failure to furnish information, returning false
13 information or failure to permit inspection.

14 (a) Penalty.--Any taxpayer who fails to keep or make any
15 record, return, report, inventory or statement, or keeps or
16 makes any false or fraudulent record, return, report, inventory
17 or statement required by this article commits a misdemeanor and
18 shall, upon conviction, be sentenced to pay costs of prosecution
19 and a fine of \$500 and to imprisonment for not more than one
20 year, or both, at the discretion of the court.

21 (b) Examination.--The department is authorized to examine
22 the books and records, the stock of tobacco products and the
23 premises and equipment of any taxpayer in order to verify the
24 accuracy of the payment of the tax imposed by this article. The
25 person subject to an examination shall give to the department or
26 its duly authorized representative, the means, facilities and
27 opportunity for the examination. Willful refusal to cooperate
28 with or permit an examination to the satisfaction of the
29 department shall be sufficient grounds for the suspension or
30 revocation of a taxpayer's license. In addition, a person who

1 willfully refuses to cooperate with or permit an examination to
2 the satisfaction of the department commits a misdemeanor and
3 shall, upon conviction, be sentenced to pay costs of prosecution
4 and a fine of \$500 or to imprisonment for not more than one
5 year, or both, at the discretion of the court.

6 (c) Dealer or manufacturer records.--A dealer or
7 manufacturer shall keep and maintain for a period of four years
8 records in the form prescribed by the department. The records
9 shall be maintained at the location for which the license is
10 issued.

11 (d) Reports.--A dealer or manufacturer shall file reports at
12 times and in the form prescribed by the department.

13 (e) Manufacturer, wholesaler or dealer records.--A
14 manufacturer, wholesaler or dealer located or doing business in
15 this Commonwealth who sells tobacco products to a wholesale or
16 retail license holder in this Commonwealth shall keep records
17 showing:

18 (1) A list by tobacco product and by brand family of the
19 number and kind of tobacco products sold, the amount of tax
20 due and the amount of tax paid. For roll-your-own tobacco,
21 the records shall include the total weight and the equivalent
22 stick count of roll-your-own tobacco by brand family which
23 the manufacturer, wholesaler or dealer sold, the amount of
24 tax due and the amount of tax paid. For purposes of this
25 paragraph, 0.09 ounces of roll-your-own tobacco shall
26 constitute one stick.

27 (2) The date the tobacco products were sold.

28 (3) The name and license number of the dealer the
29 tobacco products were sold to.

30 (4) The total weight of each of the tobacco products

1 sold to the license holder.

2 (5) The place where the tobacco products were shipped.

3 (6) The name of the common carrier.

4 (f) Manufacturer, wholesaler or dealer.--A manufacturer,
5 wholesaler or dealer shall file with the department, on or
6 before the 20th day of each month, a report showing the
7 information listed in subsection (e) for the previous month.

8 (g) Records.--Each manufacturer, wholesaler and dealer shall
9 maintain and make available to the department and to the Office
10 of Attorney General all invoices and documentation of sales of
11 all tobacco products and any other information relied upon to
12 prepare the reports required under subsection (f) for a period
13 of five years after each report is filed with the department.

14 Section 1215-A. Other violations, peace officers and fines.

15 Sections 1278, 1279, 1280 and 1291 are incorporated by
16 reference into and shall apply to the tax imposed by this
17 article.

18 Section 1216-A. Sales reporting.

19 For purposes of reporting sales of roll-your-own tobacco
20 under the act of June 22, 2000 (P.L.394, No.54), known as the
21 Tobacco Settlement Agreement Act, 0.09 ounces of tobacco shall
22 constitute one individual unit sold.

23 Section 1217-A. (Reserved).

24 Section 1218-A. (Reserved).

25 Section 1219-A. Records of shipments and receipts of tobacco
26 products required.

27 The department may, in its discretion, require reports from
28 any common or contract carrier who transports tobacco products
29 to any point or points within this Commonwealth, and from any
30 bonded warehouseman or bailee who has in the possession of the

1 warehouseman or bailee any tobacco products. The reports shall
2 contain the information concerning shipments of tobacco products
3 that the department determines to be necessary for the
4 administration of this article. All common and contract
5 carriers, bailees and warehousemen shall permit the examination
6 by the department or its authorized agents of any records
7 relating to the shipment or receipt of tobacco products.

8 Section 1220-A. Licensing of dealers and manufacturers.

9 (a) Prohibition.--No person, unless all sales of tobacco
10 products are exempt from Pennsylvania tobacco products tax,
11 shall sell, transfer or deliver any tobacco products in this
12 Commonwealth without first obtaining the proper license provided
13 for in this article.

14 (b) Application.--An applicant for a dealer's or
15 manufacturer's license shall complete and file an application
16 with the department. The application shall be in the form and
17 contain information prescribed by the department and shall set
18 forth truthfully and accurately the information desired by the
19 department. If the application is approved, the department shall
20 license the dealer or manufacturer for a period of one year and
21 the license may be renewed annually thereafter.

22 Section 1221-A. Licensing of manufacturers.

23 Any manufacturer doing business within this Commonwealth
24 shall first obtain a license to sell tobacco products by
25 submitting an application to the department containing the
26 information requested by the department and designating a
27 process agent. If a manufacturer designates no process agent,
28 the manufacturer shall be deemed to have made the Secretary of
29 State its agent for the service of process in this Commonwealth.

30 Section 1222-A. Licensing of wholesalers.

1 (a) Requirements.--Applicants for a wholesale license or
2 renewal of that license shall meet the following requirements:

3 (1) The premises on which the applicant proposes to
4 conduct business are adequate to protect the revenue.

5 (2) The applicant is a person of reasonable financial
6 stability and reasonable business experience.

7 (3) The applicant, or any shareholder controlling more
8 than 10% of the stock if the applicant is a corporation or
9 any officer or director if the applicant is a corporation,
10 shall not have been convicted of any crime involving moral
11 turpitude.

12 (4) The applicant shall not have failed to disclose any
13 material information required by the department, including
14 information that the applicant has complied with this article
15 by providing a signed statement under penalty of perjury.

16 (5) The applicant shall not have made any material false
17 statement in the application.

18 (6) The applicant shall not have violated any provision
19 of this article.

20 (7) The applicant shall have filed all required State
21 tax reports and paid any State taxes not subject to a timely
22 perfected administrative or judicial appeal or subject to a
23 duly authorized deferred payment plan.

24 (b) Multiple locations.--The wholesale license shall be
25 valid for one specific location only. Wholesalers with more than
26 one location shall obtain a license for each location.

27 Section 1223-A. Licensing of retailers.

28 Applicants for retail license or renewal of that license
29 shall meet the following requirements:

30 (1) The premises in which the applicant proposes to

1 conduct business are adequate to protect the revenues.

2 (2) The applicant shall not have failed to disclose any
3 material information required by the department.

4 (3) The applicant shall not have any material false
5 statement in the application.

6 (4) The applicant shall not have violated any provision
7 of this article.

8 (5) The applicant shall have filed all required State
9 tax reports and paid any State taxes not subject to a timely
10 perfected administrative or judicial appeal or subject to a
11 duly authorized deferred payment plan.

12 Section 1224-A. License for tobacco products vending machines.

13 Each tobacco products vending machine shall have a current
14 retail license which shall be conspicuously and visibly placed
15 on the machine. There shall be conspicuously and visibly placed
16 on every tobacco products vending machine the name and address
17 of the owner and the name and address of the operator.

18 Section 1225-A. License fees and issuance and display of
19 license.

20 (a) Application.--At the time of making any application or
21 license renewal application:

22 (1) An applicant for a tobacco products manufacturers
23 license shall pay the department a license fee of \$1,500.

24 (2) An applicant for a wholesale tobacco products
25 dealer's license shall pay to the department a license fee of
26 \$1,500.

27 (3) An applicant for a retail tobacco products dealer's
28 license shall pay to the department a license fee of \$25.

29 (4) An applicant for a vending machine tobacco products
30 dealer's license shall pay to the department a license fee of

1 \$25.

2 (b) Proration.--Fees shall not be prorated.

3 (c) Issuance and display.--On approval of the application
4 and payment of the fees, the department shall issue the proper
5 license which must be conspicuously displayed at the location
6 for which it has been issued.

7 Section 1226-A. Electronic filing.

8 The department may at its discretion require that any or all
9 returns, reports or registrations that are required to be filed
10 under this article be filed electronically. Failure to
11 electronically file any return, report, registration or other
12 information the department may direct to be filed electronically
13 shall subject the taxpayer to a penalty of 5% of the tax due on
14 the return, up to a maximum of \$1,000, but not less than \$10.
15 This penalty shall be assessed at any time and collected in the
16 manner provided in this article. This penalty shall be in
17 addition to any civil penalty imposed in this article for
18 failure to furnish information or file a return. The criminal
19 penalty for failure to file a return electronically shall be the
20 same as the criminal penalty for failure to furnish information
21 or file a return under this article.

22 Section 1227-A. Expiration of license.

23 (a) Expiration.--A license shall expire on the last day of
24 February next succeeding the date upon which it was issued
25 unless the department at an earlier date suspends, surrenders or
26 revokes the license.

27 (b) Violation.--After the expiration date of the license or
28 sooner if the license is suspended, surrendered or revoked, it
29 shall be illegal for any dealer to engage directly or indirectly
30 in the business heretofore conducted by the dealer for which the

1 license was issued. Any licensee who shall, after the expiration
2 date of the license, engage in the business theretofore
3 conducted by the licensee either by way of purchase, sale,
4 distribution or in any other manner directly or indirectly
5 engaged in the business of dealing with tobacco products for
6 profit shall be in violation of this article and be subject to
7 the penalties provided in this article.

8 Section 1228-A. Administration powers and duties.

9 (a) Department.--The administration of this article is
10 hereby vested in the department. The department shall adopt
11 rules and regulations for the enforcement of this article. The
12 department may impose fees as may be necessary to cover the
13 costs incurred in administering this section.

14 (b) Joint administration.--The department is authorized to
15 jointly administer this article with other provisions of this
16 act, including joint reporting of information, forms, returns,
17 statements, documents or other information submitted to the
18 department.

19 Section 1229-A. Sales without license.

20 (a) Penalty.--Any person who shall, without being the holder
21 of a proper unexpired dealer's license, engage in purchasing,
22 selling, distributing or in any other manner directly or
23 indirectly engaging in the business of dealing with tobacco
24 products for profit commits a summary offense and shall, upon
25 conviction, be sentenced to pay costs of prosecution and a fine
26 of not less than \$250 nor more than \$1,000, or to imprisonment
27 for not more than 30 days, or both, at the discretion of the
28 court.

29 (b) Prima facie evidence.--Open display of tobacco products
30 in any manner shall be prima facie evidence that the person

1 displaying such tobacco products is directly or indirectly
2 engaging in the business of dealing with tobacco products for
3 profit.

4 Section 1230-A. Violations and penalties.

5 (a) Suspension.--The license of any person who violates this
6 article may be suspended after due notice and opportunity for a
7 hearing for a period of not less than five days or more than 30
8 days for a first violation and shall be revoked or suspended for
9 any subsequent violation.

10 (b) Fine.--In addition to the provisions of subsection (a),
11 upon adjudication of a first violation, the person shall be
12 finned not less than \$2,500 nor more than \$5,000. For subsequent
13 violations, the person shall, upon adjudication thereof, be
14 finned not less than \$5,000 nor more than \$15,000.

15 (c) Civil penalty.--A person who violates section 1214-A
16 (b), (c) or (d) or 1225-A(c) shall be subject to a civil penalty
17 not to exceed \$300 per violation but shall not be subject to
18 subsections (a) and (b).

19 Section 1231-A. Property rights.

20 (a) Incorporation.--Subject to subsection (b), section 1285
21 is incorporated by reference into and shall apply to this
22 article.

23 (b) Alterations.--

24 (1) References in section 1285 to cigarettes shall apply
25 to tobacco products in this article.

26 (2) References in section 1285 to 2,000 or more
27 unstamped cigarettes shall apply to tobacco products worth at
28 least \$500 in this article.

29 (3) References in section 1285 to more than 200
30 unstamped cigarettes shall apply to tobacco products worth at

1 least \$50 in this article.

2 Section 1232-A. Sample of tobacco products.

3 (a) Samples.--The department shall, by regulation, govern
4 the receipt, distribution of and payment of tax on sample
5 tobacco products issued for free distribution.

6 (b) Construction.--Nothing in this article or the
7 regulations promulgated under this article shall prohibit the
8 bringing into this Commonwealth by a manufacturer samples of
9 tobacco products to be delivered and distributed only through
10 licensed dealers or the manufacturers or their sales
11 representatives. The tax shall be paid by the manufacturer
12 provided all such packs bear the legend "all applicable State
13 taxes have been paid." Under no circumstances shall any untaxed
14 tobacco products be sold within this Commonwealth.

15 Section 1233-A. Labeling and packaging.

16 It shall be unlawful to knowingly possess, sell, give,
17 transfer or deliver to any person, any tobacco product where the
18 packaging of which has been modified or altered by a person
19 other than the original manufacturer. Modification or alteration
20 shall include the placement of a sticker, writing or mark to
21 cover information on the packages. For purposes of this section,
22 a tobacco product package shall not be construed to have been
23 modified or altered by a person other than the manufacturer if
24 the most recent modification or alteration was made by the
25 manufacturer or person authorized by the manufacturer and
26 approved by the department.

27 Section 1234-A. Information exchange.

28 The department is authorized to exchange information with any
29 other Federal, State or local enforcement agency for purposes of
30 enforcing this article.

1 Section 18.1. Section 1707-B of the act, amended July 12,
2 2006 (P.L.1137, No.116), is amended to read:

3 Section 1707-B. Time Limitations.--[A taxpayer is not
4 entitled to a research and development tax credit for
5 Pennsylvania qualified research and development expenses
6 incurred in taxable years ending after December 31, 2015.] The
7 termination date in section 41(h) of the Internal Revenue Code
8 of 1986 (Public Law 99-514, 26 U.S.C. § 41(h)) does not apply to
9 a taxpayer who is eligible for the research and development tax
10 credit under this article for the taxable year in which the
11 Pennsylvania qualified research and development expense is
12 incurred.

13 Section 19. The heading of Article XVII-D of the act, added
14 July 25, 2007 (P.L.373, No.55), is amended to read:

15 ARTICLE XVII-D

16 [FILM] ENTERTAINMENT PRODUCTION TAX CREDIT

17 Section 20. Article XVII-D of the act is amended by adding a
18 subarticle heading to read:

19 SUBARTICLE A

20 PRELIMINARY PROVISIONS

21 Section 21. Section 1701-D of the act, added July 25, 2007
22 (P.L.373, No.55), is amended to read:

23 Section 1701-D. Scope of article.

24 This article relates to [film] entertainment production tax
25 credits.

26 Section 22. The act is amended by adding a section to read:

27 Section 1702-D. Definitions.

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

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

3 Section 23. Article XVII-D of the act is amended by adding a
4 subarticle heading to read:

5 SUBARTICLE B

6 FILM PRODUCTION

7 Section 24. Sections 1702-D and 1703-D of the act, amended
8 July 9, 2013 (P.L.270, No.52), are amended to read:

9 Section [1702-D] 1711-D. Definitions.

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

13 ["Department." The Department of Community and Economic
14 Development of the Commonwealth.]

15 "Film." A feature film, a television film, a television talk
16 or game show series, a television commercial or a television
17 pilot or each episode of a television series which is intended
18 as programming for a national audience. The term does not
19 include a production featuring news, current events, weather and
20 market reports, public programming, sports events, awards shows
21 or other gala events, a production that solicits funds, a
22 production containing obscene material or performances as
23 defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other
24 sexual materials and performances) or a production primarily for
25 private, political, industrial, corporate or institutional
26 purposes.

27 "Minimum stage filming requirements." Include:

28 (1) Taxpayers with a Pennsylvania production expense of
29 less than \$30,000,000 per production must:

30 (i) build at least one set at a qualified production

1 facility;

2 (ii) shoot for a minimum of ten days at a qualified
3 production facility; and

4 (iii) spend or incur a minimum of \$1,500,000 in
5 direct expenditures relating to the use or rental of
6 tangible property or for performance of services provided
7 by a qualified production facility.

8 (2) Taxpayers with a Pennsylvania production expense of
9 at least \$30,000,000 per production must:

10 (i) build at least two sets at a qualified
11 production facility;

12 (ii) shoot for a minimum of 15 days at a qualified
13 production facility; and

14 (iii) spend or incur a minimum of \$5,000,000 in
15 direct expenditures relating to the use or rental of
16 tangible property at or for performance of services
17 provided by a qualified production facility.

18 "Pass-through entity." Any of the following:

19 (1) A partnership as defined in section 301(n.0) [or a].

20 (2) A Pennsylvania S corporation as defined in section
21 301(n.1).

22 (3) An unincorporated entity subject to section 307.21.

23 "Pennsylvania production expense." Production expense
24 incurred in this Commonwealth. The term includes:

25 (1) [Compensation paid to an individual on which the tax
26 imposed by Article III will be paid or accrued.] A payment
27 made by a taxpayer to a person upon which withholding will be
28 made on the payment by the taxpayer as required under Part
29 VII of Article III.

30 (2) Payment to a personal service corporation

1 representing individual talent if the tax imposed by Article
2 IV will be paid or accrued on the net income of the
3 corporation for the taxable year.

4 (3) Payment to a pass-through entity representing
5 individual talent [if the tax imposed by Article III will be
6 paid or accrued by all of the partners, members or
7 shareholders of the pass-through entity for the taxable year
8 for which the tax imposed under Article III has been withheld
9 and remitted under the requirements of Article III by the
10 production company.] for which withholding will be made by
11 the pass-through entity on the payment as required under Part
12 VII or VII-A of Article III.

13 (4) The cost of transportation incurred while
14 transporting to or from a train station, bus depot or
15 airport, located in this Commonwealth.

16 (5) The cost of insurance coverage purchased through an
17 insurance agent based in this Commonwealth.

18 (6) The purchase of music or story rights if any of the
19 following subparagraphs apply:

20 (i) The purchase is from a resident of this
21 Commonwealth.

22 (ii) The purchase is from an entity subject to
23 taxation in this Commonwealth, and the transaction is
24 subject to taxation under Article III, IV or VI.

25 (7) The cost of rental of facilities and equipment
26 rented from or through a resident of this Commonwealth or an
27 entity subject to taxation in this Commonwealth.

28 (8) A qualified postproduction expense.

29 "Postproduction expense." A postproduction expense of
30 original content for a film as follows:

1 (1) The term includes traditional, emerging and new work
2 flow techniques used in postproduction for any of the
3 following:

4 (i) Picture, sound and music editorial, rerecording
5 and mixing.

6 (ii) Visual effects.

7 (iii) Graphic design.

8 (iv) Original scoring.

9 (v) Animation.

10 (vi) Musical composition.

11 (vii) Mastering.

12 (viii) Dubbing.

13 (2) The term does not include any of the following:

14 (i) Editing previously produced content for a film.

15 (ii) News or current affairs.

16 (iii) Talk shows.

17 (iv) Instructional videos.

18 (v) Content which contains obscene material or
19 performance as defined in 18 Pa.C.S. § 5903(b).

20 "Production expense." As follows:

21 (1) The term includes all of the following:

22 (i) Compensation paid to an individual employed in
23 the production of the film.

24 (ii) Payment to a personal service corporation
25 representing individual talent.

26 (iii) Payment to a pass-through entity representing
27 individual talent.

28 (iv) The costs of construction, operations, editing,
29 photography, sound synchronization, lighting, wardrobe
30 and accessories.

- 1 (v) The cost of leasing vehicles.
- 2 (vi) The cost of transportation to or from a train
3 station, bus depot or airport.
- 4 (vii) The cost of insurance coverage.
- 5 (viii) The costs of food and lodging.
- 6 (ix) The purchase of music or story rights.
- 7 (x) The cost of rental of facilities and equipment.
- 8 (2) The term does not include any of the following:
- 9 (i) Deferred, leveraged or profit participation paid
10 or to be paid to individuals employed in the production
11 of the film or paid to entities representing an
12 individual for services provided in the production of the
13 film.
- 14 (ii) Development cost.
- 15 (iii) Expense incurred in marketing or advertising a
16 film.
- 17 (iv) Cost related to the sale or assignment of a
18 film production tax credit under section [1705-D(e)]
19 1714-D(e).

20 "Qualified film production expense." All Pennsylvania
21 production expenses if Pennsylvania production expenses comprise
22 at least 60% of the film's total production expenses. The term
23 shall not include more than \$15,000,000 in the aggregate of
24 compensation paid to individuals or payment made to entities
25 representing an individual for services provided in the
26 production of the film.

27 "Qualified postproduction expense." A postproduction expense
28 incurred at a qualified postproduction facility.

29 "Qualified postproduction facility." A permanent facility
30 where Pennsylvania postproduction activities are conducted and

1 expenses are incurred to which all of the following apply:

2 (1) The facility is located in this Commonwealth.

3 (2) The facility is approved by the department.

4 (3) The facility employs at least ten full-time
5 employees who reside in this Commonwealth.

6 (4) There is at least \$500,000 of capital investment in
7 the facility.

8 "Qualified production facility." A film production facility
9 located within this Commonwealth that contains at least one
10 sound stage with a column-free, unobstructed floor space and
11 meets either of the following criteria:

12 (1) Has had a minimum of \$10,000,000 invested in the
13 film production facility in land or a structure purchased or
14 ground-up, purpose-built new construction or renovation of
15 existing improvement.

16 (2) Meets at least three of the following criteria:

17 (i) A sound stage having an industry standard noise
18 criteria rating of 25 or better.

19 (ii) A permanent grid with a minimum point load
20 capacity of no less than 1,000 pounds at a minimum of 25
21 points.

22 (iii) Built-in power supply available at a minimum
23 of 4,000 amps per sound stage without the need for
24 supplemental generators.

25 (iv) A height from sound stage floor to permanent
26 grid of a minimum of 20 feet.

27 (v) A sound stage with a sliding or roll-up access
28 door with a minimum height of 14 feet.

29 (vi) A built-in HVAC capacity during shoot days with
30 a minimum of 50 tons of cooling capacity available per

1 sound stage.

2 (vii) Perimeter security that includes a 24-hour,
3 seven-days-a-week security presence and use of access
4 control identification badges.

5 (viii) On-site lighting and grip department with an
6 available inventory stored at the film production
7 facility with a minimum cost of investment of \$500,000.

8 (ix) A sound stage with contiguous production
9 offices with a minimum of 5,000 square feet per sound
10 stage.

11 "Qualified tax liability." The liability for taxes imposed
12 under Article III, IV, VI, VII [or], VIII, IX or XV. The term
13 shall not include any tax withheld by an employer from an
14 employee under Article III.

15 "Start date." As follows:

16 (1) For a film:

17 (i) the first day of principal photography in this
18 Commonwealth; or

19 (ii) an earlier date approved by the Pennsylvania
20 Film Office.

21 (2) [an earlier] For a postproduction project, a date
22 [than the date under subparagraph (i),] approved by the
23 Pennsylvania Film Office.

24 "Tax credit." The film production tax credit provided under
25 this [article] subarticle.

26 "Taxpayer." A film production company subject to tax under
27 Article III, IV or VI. The term does not include contractors or
28 subcontractors of a film production company.

29 Section [1703-D] 1712-D. Credit for qualified film production
30 expenses.

1 (a) Application.--A taxpayer may apply to the department for
2 a tax credit under this section. The application shall be on the
3 form required by the department.

4 (b) Review and approval.--The department shall establish
5 application periods not to exceed 90 days each. All applications
6 received during the application period shall be reviewed and
7 evaluated by the department based on the following criteria:

8 (1) The anticipated number of production days in a
9 qualified production facility.

10 (2) The anticipated number of Pennsylvania employees.

11 (3) The number of preproduction days through
12 postproduction days in Pennsylvania.

13 (4) The anticipated number of days spent in Pennsylvania
14 hotels.

15 (5) The Pennsylvania production expenses in comparison
16 to the production budget.

17 (6) The use of studio resources.

18 (7) If the application includes a qualified
19 postproduction expense:

20 (i) The qualified postproduction facility where the
21 activity will occur.

22 (ii) The anticipated type of postproduction activity
23 that will be conducted.

24 [(7)] (8) Other criteria that the Director of the
25 Pennsylvania Film Office deems appropriate to ensure maximum
26 employment and benefit within this Commonwealth.

27 Upon determining the taxpayer has incurred or will incur
28 qualified film production expenses, the department may approve
29 the taxpayer for a tax credit. Applications not approved may be
30 reviewed and considered in subsequent application periods. The

1 department may approve a taxpayer for a tax credit based on its
2 evaluation of the criteria under this subsection.

3 (c) Contract.--If the department approves the taxpayer's
4 application under subsection (b), the department and the
5 taxpayer shall enter into a contract containing the following:

6 (1) An itemized list of production expenses incurred or
7 to be incurred for the film.

8 (2) An itemized list of Pennsylvania production expenses
9 incurred or to be incurred for the film.

10 (3) With respect to a contract entered into prior to
11 completion of production, a commitment by the taxpayer to
12 incur the qualified film production expenses as itemized.

13 (4) The start date.

14 (5) Any other information the department deems
15 appropriate.

16 (d) Certificate.--Upon execution of the contract required by
17 subsection (c), the department shall award the taxpayer a film
18 production tax credit and issue the taxpayer a film production
19 tax credit certificate.

20 Section 25. Section 1704-D of the act, added July 25, 2007
21 (P.L.373, No.55), is amended to read:

22 Section [1704-D] 1713-D. Film production tax credits.

23 A taxpayer may claim a tax credit against the qualified tax
24 liability of the taxpayer.

25 Section 26. Section 1705-D of the act, amended July 2, 2012
26 (P.L.751, No.85) and July 9, 2013 (P.L.270, No.52), is amended
27 to read:

28 Section [1705-D] 1714-D. Carryover, carryback and assignment of
29 credit.

30 (a) General rule.--If the taxpayer cannot use the entire

1 amount of the tax credit for the taxable year in which the tax
2 credit is first approved, then the excess may be carried over to
3 succeeding taxable years and used as a credit against the
4 qualified tax liability of the taxpayer for those taxable years.
5 Each time the tax credit is carried over to a succeeding taxable
6 year, it shall be reduced by the amount that was used as a
7 credit during the immediately preceding taxable year. The tax
8 credit provided by this [article] subarticle may be carried over
9 and applied to succeeding taxable years for no more than three
10 taxable years following the first taxable year for which the
11 taxpayer was entitled to claim the credit.

12 (b) Application.--A tax credit approved by the department in
13 a taxable year first shall be applied against the taxpayer's
14 qualified tax liability for the current taxable year as of the
15 date on which the credit was approved before the tax credit can
16 be applied against any tax liability under subsection (a).

17 (c) No carryback or refund.--A taxpayer is not entitled to
18 carry back or obtain a refund of all or any portion of an unused
19 tax credit granted to the taxpayer under this [article]
20 subarticle.

21 (d) (Reserved).

22 (e) Sale or assignment.--The following shall apply:

23 (1) A taxpayer, upon application to and approval by the
24 department, may sell or assign, in whole or in part, a tax
25 credit granted to the taxpayer under this [article]
26 subarticle.

27 (2) The department and the Department of Revenue shall
28 jointly promulgate regulations for the approval of
29 applications under this subsection.

30 (3) Before an application is approved, the Department of

1 Revenue must make a finding that the applicant has filed all
2 required State tax reports and returns for all applicable
3 taxable years and paid any balance of State tax due as
4 determined at settlement, assessment or determination by the
5 Department of Revenue.

6 (4) Notwithstanding any other provision of law, the
7 Department of Revenue shall settle, assess or determine the
8 tax of an applicant under this subsection within 90 days of
9 the filing of all required final returns or reports in
10 accordance with section 806.1(a)(5) of the act of April 9,
11 1929 (P.L.343, No.176), known as The Fiscal Code.

12 (f) Purchasers and assignees.--Except as set forth in
13 subsection (g), the following apply:

14 (1) The purchaser or assignee of all or a portion of a
15 tax credit under subsection (e) shall immediately claim the
16 credit in the taxable year in which the purchase or
17 assignment is made.

18 (2) The amount of the tax credit that a purchaser or
19 assignee may use against any one qualified tax liability may
20 not exceed 50% of such qualified tax liability for the
21 taxable year.

22 (3) The purchaser or assignee may not carry forward,
23 carry back or obtain a refund of or sell or assign the tax
24 credit.

25 (4) The purchaser or assignee shall notify the
26 Department of Revenue of the seller or assignor of the tax
27 credit in compliance with procedures specified by the
28 Department of Revenue.

29 (g) Limited carry forward of tax credits by a purchaser or
30 assignee.--A purchaser or assignee may carry forward all or any

1 unused portion of a tax credit purchased or assigned in:

2 (1) Calendar year 2010 against qualified tax liabilities
3 incurred in taxable years 2011 and 2012.

4 (2) Calendar year 2013 against qualified tax liabilities
5 incurred in taxable year 2014.

6 (3) Calendar year 2014 against qualified tax liabilities
7 incurred in taxable year 2015.

8 Section 27. Section 1706-D of the act, added July 25, 2007
9 (P.L.373, No.55), is amended to read:

10 Section [1706-D] 1715-D. Determination of Pennsylvania
11 production expenses.

12 In prescribing standards for determining which production
13 expenses are considered Pennsylvania production expenses for
14 purposes of computing the credit provided by this [article]
15 subarticle, the department shall consider:

16 (1) The location where services are performed.

17 (2) The location where supplies are consumed.

18 (3) Other factors the department determines are
19 relevant.

20 Section 28. Section 1707-D of the act, amended July 2, 2012
21 (P.L.751, No.85), is amended to read:

22 Section [1707-D] 1716-D. Limitations.

23 (a) Cap.--[In] Except for tax credits reissued under section
24 1761.1-D, in no case shall the aggregate amount of tax credits
25 awarded in any fiscal year under this [article] subarticle
26 exceed [\$60,000,000] \$65,000,000. The department may, in its
27 discretion, award in one fiscal year up to:

28 (1) Thirty percent of the dollar amount of film
29 production tax credits available to be awarded in the next
30 succeeding fiscal year.

1 (2) Twenty percent of the dollar amount of film
2 production tax credits available to be awarded in the second
3 successive fiscal year.

4 (3) Ten percent of the dollar amount of film production
5 tax credits available to be awarded in the third successive
6 fiscal year.

7 (a.1) Advance award of credits.--The advance award of film
8 tax credits under subsection (a) shall:

9 (1) count against the total dollar amount of credits
10 that the department may award in that next succeeding fiscal
11 year; and

12 (2) reduce the dollar amount of credits that the
13 department may award in that next succeeding fiscal year.

14 The individual limitations on the awarding of film production
15 tax credits apply to an advance award of film production tax
16 credits under subsection (a) and to a combination of film
17 production tax credits awarded against the current fiscal year
18 cap and against the next succeeding fiscal year's cap.

19 (b) Individual limitations.--The following shall apply:

20 (1) Except as set forth in paragraph (1.1) or (1.2), the
21 aggregate amount of film production tax credits awarded by
22 the department under section [1703-D(d)] 1712-D(d) to a
23 taxpayer for a film may not exceed 25% of the qualified film
24 production expenses to be incurred.

25 (1.1) In addition to the tax credit under paragraph (1),
26 a taxpayer is eligible for a credit in the amount of 5% of
27 the qualified film production expenses incurred by the
28 taxpayer if the taxpayer:

29 (i) films a feature film, television film or
30 television series, which is intended as programming for a

1 national audience; and

2 (ii) films in a qualified production facility which
3 meets the minimum stage filming requirements.

4 (1.2) A qualified postproduction expense shall qualify
5 for a 30% credit.

6 (2) A taxpayer that has received a grant under 12
7 Pa.C.S. § 4106 (relating to approval) shall not be eligible
8 for a film production tax credit under this act for the same
9 film.

10 (c) Qualified production facility.--To be considered a
11 qualified production facility [under subsection (b)(1.1)] or
12 qualified postproduction facility, the owner of a facility shall
13 provide evidence to the department to verify the development or
14 facility specifications and capital [improvement] investment
15 costs incurred for the facility so that the threshold amounts
16 set in the [definition] definitions of "qualified production
17 facility," [under section 1702-D] and "qualified postproduction
18 facility" are satisfied, and upon verification, the facility
19 shall be registered by the department officially as a qualified
20 production facility or qualified postproduction facility.

21 (d) Waiver.--The department may make a determination that
22 the financial benefit to this Commonwealth resulting from the
23 direct investment in or payments made to Pennsylvania facilities
24 outweighs the benefit of maintaining the 60% requirement
25 contained in the definition of "qualified film production
26 expense." If such determination is made, the department may
27 waive the requirement that 60% of a film's total production or
28 postproduction expenses be comprised of Pennsylvania production
29 expenses for a [feature] film, television film or television
30 series that is intended as programming for a national audience

1 and is filmed or produced in a qualified production facility or
2 qualified postproduction facility if the taxpayer who has
3 Pennsylvania production expenses of at least \$30,000,000 per
4 production meets the minimum stage filming requirements.

5 Section 28.1. The act is amended by adding a section to
6 read:

7 Section 1716.1-D. Reissuance of film production tax credits.

8 (a) Reissuance.--In any fiscal year, the department may
9 reissue a tax credit which meets all of the following:

10 (1) The tax credit was approved under section 1712-D(b).

11 (2) The contract was signed under section 1712-D(c).

12 (3) The tax credit was awarded and a certificate was
13 issued under section 1712-D(d).

14 (b) Amount.--The amount of a tax credit to be reissued shall
15 be calculated as the difference between the amounts in
16 subsection (a)(1) and (3).

17 (c) Applicability.--This section shall apply to a tax credit
18 awarded under this article in any fiscal year beginning after
19 June 30, 2017.

20 Section 29. Sections 1708-D, 1709-D, 1710-D, 1711-D and
21 1712-D of the act, added July 25, 2007 (P.L.373, No.55), are
22 amended to read:

23 Section [1708-D] 1717-D. Penalty.

24 A taxpayer which claims a tax credit and fails to incur the
25 amount of qualified film production expenses agreed to in
26 section [1703-D(c)(3)] 1712-D(c)(3) for a film in that taxable
27 year shall repay to the Commonwealth the amount of the film
28 production tax credit claimed under this [article] subarticle
29 for the film.

30 Section [1709-D] 1718-D. Pass-through entity.

1 (a) General rule.--If a pass-through entity has any unused
2 tax credit under section [1705-D] 1714-D, it may elect in
3 writing, according to procedures established by the Department
4 of Revenue, to transfer all or a portion of the credit to
5 shareholders, members or partners in proportion to the share of
6 the entity's distributive income to which the shareholder,
7 member or partner is entitled.

8 (b) Limitation.--A pass-through entity and a shareholder,
9 member or partner of a pass-through entity shall not claim the
10 credit under subsection (a) for the same qualified film
11 production expense.

12 (c) Application.--A shareholder, member or partner of a
13 pass-through entity to whom a credit is transferred under
14 subsection (a) shall immediately claim the credit in the taxable
15 year in which the transfer is made. The shareholder, member or
16 partner may not carry forward, carry back, obtain a refund of or
17 sell or assign the credit.

18 Section [1710-D] 1719-D. Department guidelines and regulations.

19 The department shall develop written guidelines for the
20 implementation of the provisions of this [article] subarticle.
21 The guidelines shall be in effect until such time as the
22 department promulgates regulations for the implementation of the
23 provisions of this [article] subarticle. The department shall
24 promulgate regulations for the implementation of this [article]
25 subarticle within two years of the effective date of this
26 section.

27 Section [1711-D] 1720-D. Report to General Assembly.

28 (a) General rule.--No later than June 1, 2008, and September
29 1 of each year thereafter, the Secretary of Community and
30 Economic Development shall submit a report to the General

1 Assembly summarizing the effectiveness of the tax credit
2 provided by this [article] subarticle. The report shall include
3 the name of the film produced, the names of all taxpayers
4 utilizing the credit as of the date of the report and the amount
5 of credits approved for, utilized by or sold or assigned by each
6 taxpayer. The report may also include any recommendations for
7 changes in the calculation or administration of the tax credit.
8 The report shall be submitted to the chairman and minority
9 chairman of the Appropriations and Finance Committees of the
10 Senate and the chairman and minority chairman of the
11 Appropriations and Finance Committees of the House of
12 Representatives. In addition to the information set forth above,
13 the report shall include the following information, which shall
14 be separated by geographic location within this Commonwealth:

15 (1) The amount of credits claimed during the fiscal year
16 by film.

17 (2) The total amount spent in this Commonwealth during
18 the fiscal year by film.

19 (3) The total amount of tax revenues generated by this
20 Commonwealth during the fiscal year by film.

21 (4) The total number of jobs created during the fiscal
22 year by film, including the duration of the jobs.

23 (b) Public information.--Notwithstanding any law providing
24 for the confidentiality of tax records, the information in the
25 report shall be public information, and all report information
26 shall be posted on the department's Internet website.

27 Section [1712-D] 1721-D. Film Advisory Board.

28 (a) Composition.--A Film Advisory Board is established. The
29 board shall work with the Pennsylvania Film Office and the
30 regional film offices to promote the film industry throughout

1 this Commonwealth and to examine and file a written report on
2 the effectiveness of the tax credit and grant programs. The
3 report shall be included in the department's report required
4 under section [1711-D] 1720-D. The board shall consist of the
5 following members:

6 (1) The Secretary of Community and Economic Development,
7 or a designee.

8 (2) A member appointed by the Governor.

9 (3) A member appointed by the President pro tempore of
10 the Senate.

11 (4) A member appointed by the Minority Leader of the
12 Senate.

13 (5) A member appointed by the Majority Leader of the
14 House of Representatives.

15 (6) A member appointed by the Minority Leader of the
16 House of Representatives.

17 (b) Compensation.--Members of the board shall not be
18 compensated for their service as board members, but shall be
19 compensated for their reasonable expenses. The department shall
20 provide administrative support for the board.

21 (c) Meetings.--The board shall meet no less than twice each
22 year.

23 (d) Chairman.--The members of the board shall elect the
24 chairman.

25 Section 30. Article XVII-D of the act is amended by adding
26 subarticles to read:

27 SUBARTICLE C

28 CONCERT REHEARSAL AND TOUR

29 Section 1731-D. Definitions.

30 The following words and phrases when used in this subarticle

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Class 1 venue." A stadium, arena, other structure or on
4 property owned by a municipality or an authority formed pursuant
5 to Article XXV-A of the act of July 28, 1953 (P.L.723, No.230),
6 known as the Second Class County Code, at which concerts are
7 performed and which is all of the following:

8 (1) Located in a city of the first class or a county of
9 the second class.

10 (2) Is constructed in a manner in which the venue has a
11 seating capacity of at least 14,000.

12 "Class 2 venue." A stadium, arena or other structure at
13 which concerts are performed and which is all of the following:

14 (1) Located outside the geographic boundaries of a city
15 of the first class or a county of the second class.

16 (2) Is constructed in a manner in which the venue has a
17 seating capacity of at least 6,000.

18 "Class 3 venue." A stadium, arena or other structure which
19 is any of the following:

20 (1) Located within a neighborhood improvement zone, as
21 defined in section 1902-B.

22 (2) Owned by or affiliated with a State-related
23 institution, as defined in 62 Pa.C.S. § 103 (relating to
24 definitions).

25 (3) Owned by the Commonwealth and affiliated with the
26 State System of Higher Education.

27 "Concert." A live performance of music in the presence of
28 individuals who view the performance.

29 "Concert tour equipment." Includes stage, set, scenery,
30 design elements, automation, rigging, trusses, spot lights,

1 lighting, sound equipment, video equipment, special effects,
2 cases, communication devices, power distribution equipment,
3 backline and other miscellaneous equipment or supplies used
4 during a concert or rehearsal.

5 "Minimum rehearsal and tour requirements." During a tour,
6 all of the following must occur:

7 (1) the purchase or rental of concert tour equipment
8 delivered to a location in this Commonwealth, in an amount of
9 at least \$3,000,000, from companies located and maintaining a
10 place of business in this Commonwealth for use on the tour;

11 (2) a rehearsal at a qualified rehearsal facility for a
12 minimum of 10 days;

13 (3) at least one concert performed at a class 1 venue;
14 and

15 (4) at least one concert performed at a venue which is
16 located in a municipality other than the municipality in
17 which the class 1 venue under paragraph (3) is located.

18 "Pass-through entity." Any of the following:

19 (1) A partnership as defined in section 301(n.0).

20 (2) A Pennsylvania S corporation as defined in section
21 301(n.1).

22 (3) An unincorporated entity subject to section 307.21.

23 "Pennsylvania rehearsal and tour expenses." The sum of
24 Pennsylvania rehearsal expenses and tour expenses.

25 "Pennsylvania rehearsal expense." A rehearsal expense which
26 is incurred or will be incurred within this Commonwealth. The
27 term includes:

28 (1) A payment made by a taxpayer to a person upon which
29 withholding will be made on the payment by the taxpayer as
30 required under Part VII of Article III.

1 (2) Payment to a personal service corporation
2 representing individual talent if the tax imposed by Article
3 IV will be paid or accrued on the net income of the
4 corporation for the taxable year.

5 (3) Payment to a pass-through entity representing
6 individual talent for which withholding will be made by the
7 pass-through entity on the payment as required under Part VII
8 or VII-A of Article III.

9 "Qualified rehearsal and tour expense." All Pennsylvania
10 rehearsal and tour expenses if Pennsylvania rehearsal expenses
11 comprise at least 60% of the total rehearsal expenses. The term
12 shall not include more than \$2,000,000 in the aggregate of
13 compensation paid to individuals or payment made to entities
14 representing an individual for services provided in the tour.

15 "Qualified rehearsal facility." A rehearsal facility which
16 meets at least six of the following criteria:

17 (1) Has had a minimum of \$8,000,000 invested in the
18 rehearsal facility in land or structure, or a combination of
19 land and structure.

20 (2) Has a permanent grid system with a capacity of
21 1,000,000 pounds.

22 (3) Has a built-in power supply system available at a
23 minimum of 3,200 amps without the need for any supplemental
24 generators.

25 (4) Has a height from floor to permanent grid of a
26 minimum of 80 feet.

27 (5) Has at least two sliding or roll-up access doors
28 with a minimum height of 14 feet.

29 (6) Has a perimeter security system which includes 24-
30 hour, seven-days-a-week security cameras and the use of

1 access control identification badges.

2 (7) Has a service area with production offices, catering
3 and dressing rooms with a minimum of 5,000 square feet.

4 (8) Is located within one mile of a minimum of two
5 companies which provide concert tour equipment for use on a
6 tour.

7 "Qualified tax liability." The liability for taxes imposed
8 under Article III, IV or VI. The term shall not include any tax
9 withheld by an employer from an employee under Article III.

10 "Rehearsal." An event or series of events which occur in
11 preparation for a tour prior to the start of the tour or during
12 a tour when additional preparation may be needed.

13 "Rehearsal expense." All of the following when incurred or
14 will be incurred during a rehearsal:

15 (1) Compensation paid to an individual employed in the
16 rehearsal of the performance.

17 (1.1) Payment to a personal service corporation
18 representing individual talent.

19 (1.2) Payment to a pass-through entity representing
20 individual talent.

21 (2) The costs of construction, operations, editing,
22 photography, staging, lighting, wardrobe and accessories.

23 (3) The cost of leasing vehicles.

24 (4) The cost of transportation of people or concert tour
25 equipment to or from a train station, bus depot, airport or
26 other transportation facility or directly from a residence or
27 business entity.

28 (5) The cost of insurance coverage.

29 (6) The cost of food and lodging.

30 (7) The cost of purchase or rental of concert tour

1 equipment.

2 (8) The cost of renting a rehearsal facility.

3 (9) The cost of emergency or medical support services
4 required to conduct a rehearsal.

5 "Rehearsal facility." As follows:

6 (1) A facility primarily used for rehearsals which is
7 all of the following:

8 (i) Located within this Commonwealth.

9 (ii) Has a minimum of 25,000 square feet of column-
10 free, unobstructed floor space.

11 (2) The term does not include a facility at which
12 concerts are capable of being held.

13 "Start date." The date the first set of concert tour
14 equipment arrives or is expected to arrive at a qualified
15 rehearsal facility.

16 "Tax credit." The concert rehearsal and tour tax credit
17 provided under this subarticle.

18 "Taxpayer." A concert tour promotion company, concert tour
19 management company or other concert management company subject
20 to tax under Article III, IV or VI. The term does not include
21 contractors or subcontractors of a concert tour promotion
22 company, concert tour management or other concert management
23 company.

24 "Tour." A series of concerts performed by a musical
25 performer in more than one location.

26 "Tour expense." As follows:

27 (1) Costs incurred or which will be incurred during a
28 tour for venues located in this Commonwealth. The term
29 includes all of the following:

30 (i) A payment made by a taxpayer to a person upon

1 which withholding will be made on the payment by the
2 taxpayer as required under Part VII of Article III.

3 (ii) The cost of transportation of people or concert
4 touring equipment incurred while transporting to or from
5 a train station, bus depot, airport or other
6 transportation facility or while transporting directly
7 from a residence or business entity, located in this
8 Commonwealth or incurred for transportation provided by a
9 company which is subject to the tax imposed under Article
10 III or IV.

11 (iii) The cost of leasing vehicles upon which the
12 tax imposed by Article II will be paid or accrued.

13 (iv) The cost of insurance coverage purchased
14 through an insurance agent based in this Commonwealth.

15 (v) The cost of purchasing or renting facilities and
16 equipment from or through a resident of this Commonwealth
17 or an entity subject to taxation in this Commonwealth.

18 (vi) The cost of food and lodging incurred from a
19 facility located in this Commonwealth.

20 (vii) Expenses incurred in marketing or advertising
21 a tour at venues located within this Commonwealth.

22 (viii) The cost of merchandise purchased from a
23 company located within this Commonwealth and used on the
24 tour.

25 (2) The term does not include development cost,
26 including the writing of music or lyrics.

27 "Venue." A class 1, class 2 or class 3 venue.

28 Section 1732-D. Procedure.

29 (a) Application.--A taxpayer may apply to the department for
30 a tax credit under this section. The application shall be on the

1 form required by the department.

2 (b) Review and approval.--

3 (1) The department shall establish application periods
4 not to exceed 30 days. All applications received during an
5 application period shall be reviewed and evaluated by the
6 department based on the following criteria:

7 (i) The anticipated number of rehearsal days in a
8 qualified rehearsal facility.

9 (ii) The anticipated number of concerts at class 1
10 venues.

11 (iii) The anticipated number of concerts at class 2
12 venues.

13 (iv) The anticipated number of concerts at class 3
14 venues.

15 (v) The amount of Pennsylvania rehearsal expenses in
16 comparison to the aggregate amount of rehearsal expenses.

17 (vi) The anticipated tour expenses.

18 (vii) The anticipated concert tour equipment
19 expenses which are or will be purchased or rented from a
20 company located in this Commonwealth and which will be
21 used on the tour.

22 (viii) The anticipated number of days spent in
23 Commonwealth hotels.

24 (ix) Other criteria that the department deems
25 appropriate to ensure maximum employment opportunities
26 and entertainment benefits for the residents of this
27 Commonwealth.

28 (2) Upon determining that the taxpayer has paid the
29 applicable application fee, not to exceed \$300, has met the
30 minimum rehearsal and tour requirements and has incurred or

1 will incur qualified rehearsal and tour expenses, the
2 department may approve the taxpayer for a tax credit.
3 Applications not approved may be reviewed and considered in
4 subsequent application periods. The department may approve a
5 taxpayer for a tax credit based on its evaluation of the
6 criteria under this subsection.

7 (c) Contract.--If the department approves the taxpayer's
8 application under subsection (b), the department and the
9 taxpayer shall enter into a contract containing the following:

10 (1) An itemized list of rehearsal expenses incurred or
11 to be incurred for the tour.

12 (2) An itemized list of Pennsylvania rehearsal expenses
13 incurred or to be incurred for the tour.

14 (3) With respect to a contract entered into prior to
15 completion of a tour, a commitment by the taxpayer to incur
16 the Pennsylvania rehearsal expenses as itemized.

17 (4) An itemized list of the qualified rehearsal and tour
18 expenses incurred or to be incurred for the tour.

19 (5) With respect to a contract entered into prior to
20 completion of a tour, a commitment by the taxpayer to incur
21 the qualified rehearsal and tour expenses as itemized.

22 (6) With respect to a contract entered into prior to
23 completion of a tour, a commitment by the taxpayer to hold at
24 least one concert at a class 1 venue.

25 (7) With respect to a contract entered into prior to
26 completion of a tour, a commitment by the taxpayer to hold at
27 least one concert at a venue located in a municipality other
28 than the municipality in which the class 1 venue under
29 paragraph (6) is located.

30 (8) The start date or the expected start date.

1 (9) Any other information the department deems
2 appropriate.

3 (c.1) Prohibition.--A tax credit may not be awarded for
4 fiscal years prior to fiscal year 2017-2018.

5 (d) Certificate.--Upon execution of the contract required by
6 subsection (c), the department shall award the taxpayer a
7 concert rehearsal and tour tax credit and issue the taxpayer a
8 tax credit certificate.

9 Section 1733-D. Claim.

10 Beginning July 1, 2017, a taxpayer may claim a concert
11 rehearsal and tour tax credit against the qualified tax
12 liability of the taxpayer.

13 Section 1734-D. Carryover, carryback and assignment of tax
14 credit.

15 (a) General rule.--If a taxpayer cannot use the entire
16 amount of a tax credit for the taxable year in which the tax
17 credit is first approved, the excess may be carried over to
18 succeeding taxable years and used as a tax credit against the
19 qualified tax liability of the taxpayer for those taxable years.
20 Each time the tax credit is carried over to a succeeding taxable
21 year, the tax credit shall be reduced by the amount that was
22 used as a credit during the immediately preceding taxable year.
23 The tax credit may be carried over and applied to succeeding
24 taxable years for no more than three taxable years following the
25 first taxable year for which the taxpayer was entitled to claim
26 the tax credit.

27 (b) Application.--A tax credit approved by the department in
28 a taxable year first shall be applied against the taxpayer's
29 qualified tax liability for the current taxable year as of the
30 date on which the tax credit was approved before the tax credit

1 can be applied against any tax liability under subsection (a).

2 (c) No carryback or refund.--A taxpayer shall not be
3 entitled to carry back or obtain a refund of all or any portion
4 of an unused tax credit granted to the taxpayer under this
5 subarticle.

6 Section 1735-D. Determination of Pennsylvania rehearsal and
7 tour expenses.

8 When prescribing standards for determining which rehearsal or
9 tour expenses are considered Pennsylvania rehearsal and tour
10 expenses for purposes of computing the tax credit provided by
11 this subarticle, the department shall consider:

12 (1) The location where services are performed.

13 (2) The location where concert tour equipment is
14 purchased, rented, delivered and used.

15 (3) The location where rehearsals or concerts are held.

16 (4) Other factors the department determines are
17 relevant.

18 Section 1736-D. Limitations.

19 (a) Cap.--The aggregate amount of tax credits awarded in any
20 fiscal year under this subarticle may not exceed \$4,000,000. The
21 department may, in the department's discretion, award in one
22 fiscal year up to 50% of the dollar amount of tax credits
23 available to be awarded in the next succeeding fiscal year.

24 (b) Advance award of credits.--

25 (1) The advance award of tax credits under subsection

26 (a) shall:

27 (i) count against the total dollar amount of tax
28 credits that the department may award in that next
29 succeeding fiscal year; and

30 (ii) reduce the dollar amount of tax credits that

1 the department may award in that next succeeding fiscal
2 year.

3 (2) The individual limitations under subsection (c) on
4 the awarding of tax credits apply to an advance award of tax
5 credits under subsection (a) and to a combination of tax
6 credits awarded against the current fiscal year's cap and
7 against the next succeeding fiscal year's cap.

8 (c) Individual limitations.--The following shall apply:

9 (1) A taxpayer may not be awarded more than \$800,000 of
10 tax credits for a tour.

11 (2) Except as provided under paragraph (5), the
12 aggregate amount of tax credits awarded by the department
13 under section 1732-D(d) to a taxpayer for a tour with
14 concerts at two class 1 venues or a class 1 venue and a class
15 2 venue may not exceed 25% of the qualified rehearsal and
16 tour expenses incurred or to be incurred.

17 (3) Except as provided under paragraph (5), the
18 aggregate amount of tax credits awarded by the department
19 under section 1732-D(d) to a taxpayer for a tour with
20 concerts at a class 1 venue and a class 3 venue may not
21 exceed 30% of the qualified rehearsal and tour expenses
22 incurred or to be incurred.

23 (4) Except as provided under paragraph (5), the
24 aggregate amount of tax credits awarded by the department
25 under section 1732-D(d) to a taxpayer for a tour with
26 concerts at a class 1 venue and a class 3 venue which does
27 not serve alcohol may not exceed 35% of the qualified
28 rehearsal and tour expenses incurred or to be incurred.

29 (5) In addition to the tax credits under paragraph (2),
30 (3) or (4), a taxpayer is eligible for a tax credit in the

1 amount of 5% of the qualified rehearsal and tour expenses
2 incurred or to be incurred by the taxpayer if the taxpayer
3 holds concerts at a total of two or more class 2 venues or
4 class 3 venues.

5 (d) Qualified rehearsal facility.--To be considered a
6 qualified rehearsal facility under this subarticle, the owner of
7 a rehearsal facility shall provide evidence to the department to
8 verify the development or facility specifications and capital
9 improvement costs incurred for the rehearsal facility so that
10 the threshold amounts set in the definition of "qualified
11 rehearsal facility" under section 1731-D are satisfied, and upon
12 verification, the rehearsal facility shall be registered by the
13 department officially as a qualified rehearsal facility.

14 (e) Waiver.--The department may make a determination that
15 the financial benefit to this Commonwealth resulting from the
16 direct investment in or payments made to Pennsylvania rehearsal
17 and concert facilities outweighs the benefit of maintaining the
18 60% Pennsylvania rehearsal expenses requirement contained in the
19 definition of qualified rehearsal and tour expense. If such
20 determination is made, the department may waive the requirement
21 that 60% of a tour's aggregate rehearsal expenses be comprised
22 of Pennsylvania rehearsal expenses.

23 Section 1737-D. Penalty.

24 A taxpayer which claims a tax credit and fails to incur the
25 amount of qualified rehearsal and tour expenses agreed to in
26 section 1732-D(c)(4) for a tour in that taxable year shall repay
27 to the Commonwealth an amount equal to 110% of the difference
28 between the amount agreed to in section 1732-D(c)(4) and the
29 amount of qualified rehearsal and tour expenses actually
30 incurred by the taxpayer. The penalty shall be assessed and

1 collected under Article II.

2 Section 1738-D. Pass-through entity.

3 (a) General rule.--If a pass-through entity has any unused
4 tax credits under section 1734-D, it may elect in writing,
5 according to procedures established by the Department of
6 Revenue, to transfer all or a portion of the tax credits to
7 shareholders, members or partners in proportion to the share of
8 the entity's distributive income to which the shareholder,
9 member or partner is entitled.

10 (b) Limitation.--A pass-through entity and a shareholder,
11 member or partner of a pass-through entity shall not claim the
12 tax credit under subsection (a) for the same qualified rehearsal
13 and tour expense.

14 (c) Application.--A shareholder, member or partner of a
15 pass-through entity to whom a tax credit is transferred under
16 subsection (a) shall immediately claim the tax credit in the
17 taxable year in which the transfer is made. The shareholder,
18 member or partner may not carry forward, carry back, obtain a
19 refund of or sell or assign the tax credit.

20 Section 1739-D. Department guidelines and regulations.

21 The department shall develop written guidelines for the
22 implementation of the provisions of this subarticle. The
23 guidelines shall be in effect until such time as the department
24 promulgates regulations for the implementation of the provisions
25 of this subarticle. The department shall promulgate regulations
26 for the implementation of this subarticle within two years of
27 the effective date of this section.

28 Section 1740-D. Report to General Assembly.

29 No later than June 1, 2018, and September 1 of each year
30 thereafter, the Secretary of Community and Economic Development

1 shall submit a report to the General Assembly summarizing the
2 effectiveness of the tax credits provided by this subarticle.
3 The report shall include the name of the tours which rehearsed
4 in this Commonwealth, the names of all taxpayers utilizing the
5 tax credit as of the date of the report and the amount of tax
6 credits approved for each taxpayer. The report may also include
7 any recommendations for changes in the calculation or
8 administration of the tax credits provided by this subarticle.
9 The report shall be submitted to the chairman and minority
10 chairman of the Appropriations Committee of the Senate, the
11 chairman and minority chairman of the Finance Committee of the
12 Senate, the chairman and minority chairman of the Appropriations
13 Committee of the House of Representatives and the chairman and
14 minority chairman of the Finance Committee of the House of
15 Representatives. In addition to the information set forth above,
16 the report shall include the following information, which shall
17 be separated by geographic location within this Commonwealth:

18 (1) The amount of tax credits claimed during the fiscal
19 year by tour.

20 (2) The total amount spent in this Commonwealth during
21 the fiscal year by tours and concert tour promotion companies
22 for services and supplies.

23 (3) The total amount of tax revenues, both directly and
24 indirectly, generated for the Commonwealth during the fiscal
25 year by the concert rehearsal and tour industry.

26 SUBARTICLE D

27 VIDEO GAME PRODUCTION

28 Section 1751-D. Scope of subarticle.

29 This subarticle relates to video game production tax credits.

30 Section 1752-D. Definitions.

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

4 "Pass-through entity." Any of the following:

5 (1) A partnership as defined in section 301(n.0).

6 (2) A Pennsylvania S corporation as defined in section
7 301(n.1).

8 (3) An unincorporated entity subject to section 307.21.

9 "Pennsylvania production expense." Production expense
10 incurred in this Commonwealth. The term includes:

11 (1) A payment made by a taxpayer to a person upon which
12 withholding will be made on the payment by the taxpayer as
13 required under Part VII of Article III.

14 (2) Payment to a personal service corporation
15 representing individual talent if the tax imposed by Article
16 IV will be paid or accrued on the net income of the
17 corporation for the taxable year.

18 (3) Payment to a pass-through entity representing
19 individual talent if withholding will be made by the pass-
20 through entity on the payment as required under Part VII or
21 VII-A of Article III.

22 (4) The cost of transportation incurred while
23 transporting to or from a train station, bus depot or airport
24 located in this Commonwealth.

25 (5) The cost of insurance coverage purchased through an
26 insurance agent based in this Commonwealth.

27 (6) The purchase of music or story rights if any of the
28 following subparagraphs apply:

29 (i) The purchase is from a resident of this
30 Commonwealth.

1 (ii) The purchase is from an entity subject to
2 taxation in this Commonwealth, and the transaction is
3 subject to taxation under Article III or IV.

4 (7) The cost of rental of facilities and equipment
5 rented from or through a resident of this Commonwealth or an
6 entity subject to taxation in this Commonwealth.

7 (8) The development and manufacture of video game
8 equipment.

9 "Production expense." As follows:

10 (1) The term includes all of the following:

11 (i) Compensation paid to an individual employed in
12 the production of a video game.

13 (ii) Payment to a personal service corporation
14 representing individual talent.

15 (iii) Payment to a pass-through entity representing
16 individual talent.

17 (iv) The costs of construction, operations, editing,
18 photography, sound synchronization, lighting, wardrobe
19 and accessories.

20 (v) The cost of leasing vehicles.

21 (vi) The cost of transportation to or from a train
22 station, bus depot or airport.

23 (vii) The cost of insurance coverage.

24 (viii) The costs of food and lodging.

25 (ix) The purchase of music or story rights.

26 (x) The cost of rental of facilities and equipment.

27 (xi) Development and production costs relating to
28 video games.

29 (2) The term does not include any of the following:

30 (i) Deferred, leveraged or profit participation paid

1 or to be paid to individuals employed in the production
2 of a video game or paid to entities representing an
3 individual for services provided in the production of a
4 video game.

5 (ii) Expense incurred in marketing or advertising a
6 video game.

7 (iii) Cost related to the sale or assignment of a
8 video game production tax credit under section 1755-D(e).

9 "Qualified tax liability." The liability for taxes imposed
10 under Article III, IV, VI, VII, VIII, IX or XV. The term does
11 not include a tax withheld by an employer from an employee under
12 Article III.

13 "Qualified video game production expense." All Pennsylvania
14 production expenses if Pennsylvania production expenses comprise
15 at least 60% of the video game's total production expenses. The
16 term does not include more than \$1,000,000 in the aggregate of
17 compensation paid to individuals or payment made to entities
18 representing an individual for services provided in the
19 production of the video game.

20 "Start date." The first day of principal production of a
21 video game in this Commonwealth.

22 "Tax credit." The video game production tax credit provided
23 under this subarticle.

24 "Taxpayer." A video game production company subject to tax
25 under Article III, IV or VI. The term does not include
26 contractors or subcontractors of a video game production
27 company.

28 "Video game." An electronic game that involves interaction
29 with a user interface to generate visual feedback on a video
30 device. The term does not include a game that contains obscene

1 material or performances as defined in 18 Pa.C.S. § 5903(b)
2 (relating to obscene and other sexual materials and
3 performances) or a game designed primarily for private,
4 political, industrial, corporate or institutional purposes.

5 "Video game equipment." Equipment that is required for the
6 development or functioning of a video game. The term includes:

7 (1) Integrated video and audio equipment, networking
8 routers, switches, network cabling and any other computer-
9 related hardware necessary to create or operate a video game.

10 (2) Software, notwithstanding the method of delivery,
11 transfer or access.

12 (3) Computer code.

13 (4) Image files, music files, audio files, video files,
14 scripts and plays.

15 (5) Concept mock-ups.

16 (6) Software tools.

17 (7) Testing procedures.

18 (8) A component part of an item listed under paragraph
19 (2), (3), (4), (5), (6) or (7), necessary and integral to
20 create, develop or produce a video game.

21 Section 1753-D. Credit for qualified video game production
22 expenses.

23 (a) Application.--A taxpayer may apply to the department for
24 a tax credit under this section. The application shall be on the
25 form required by the department.

26 (b) Review and approval.--The department shall review and
27 approve or disapprove the applications in the order in which
28 they are received. Upon determining the taxpayer has incurred or
29 will incur qualified video game production expenses, the
30 department may approve the taxpayer for a tax credit.

1 (c) Contract.--If the department approves the taxpayer's
2 application under subsection (b), the department and the
3 taxpayer shall enter into a contract containing the following:

4 (1) An itemized list of production expenses incurred or
5 to be incurred for the video game.

6 (2) An itemized list of Pennsylvania production expenses
7 incurred or to be incurred for the video game.

8 (3) With respect to a contract entered into prior to
9 completion of production, a commitment by the taxpayer to
10 incur the qualified video game production expenses as
11 itemized.

12 (4) The principal production start date.

13 (5) Any other information the department deems
14 appropriate.

15 (c.1) Prohibition.--A tax credit may not be awarded for
16 fiscal years prior to fiscal year 2017-2018.

17 (d) Certificate.--Upon execution of the contract required by
18 subsection (c), the department shall award the taxpayer a video
19 game production tax credit and issue the taxpayer a video game
20 production tax credit certificate.

21 Section 1754-D. Video game production tax credits.

22 Beginning July 1, 2017, a taxpayer may claim a tax credit
23 against the qualified tax liability of the taxpayer.

24 Section 1755-D. Carryover, carryback and assignment of credit.

25 (a) General rule.--If the taxpayer cannot use the entire
26 amount of the tax credit for the taxable year in which the tax
27 credit is first approved, the excess may be carried over to
28 succeeding taxable years and used as a credit against the
29 qualified tax liability of the taxpayer for those taxable years.
30 Each time the tax credit is carried over to a succeeding taxable

1 year, it shall be reduced by the amount that was used as a
2 credit during the immediately preceding taxable year. The tax
3 credit may be carried over and applied to succeeding taxable
4 years for no more than three taxable years following the first
5 taxable year for which the taxpayer was entitled to claim the
6 tax credit.

7 (b) Application.--A tax credit approved by the department in
8 a taxable year first shall be applied against the taxpayer's
9 qualified tax liability for the current taxable year as of the
10 date on which the tax credit was approved before the tax credit
11 can be applied against any tax liability under subsection (a).

12 (c) No carryback or refund.--A taxpayer is not entitled to
13 carry back or obtain a refund of all or any portion of an unused
14 tax credit granted to the taxpayer under this subarticle.

15 (d) (Reserved).

16 (e) Sale or assignment.--The following shall apply:

17 (1) A taxpayer, upon application to and approval by the
18 department, may sell or assign, in whole or in part, a tax
19 credit granted to the taxpayer under this subarticle.

20 (2) The department and the Department of Revenue shall
21 jointly promulgate regulations for the approval of
22 applications under this subsection.

23 (3) Before an application is approved, the Department of
24 Revenue must make a finding that the applicant has filed all
25 required State tax reports and returns for all applicable
26 taxable years and paid any balance of State tax due as
27 determined at settlement, assessment or determination by the
28 Department of Revenue.

29 (4) Notwithstanding any other provision of law, the
30 Department of Revenue shall settle, assess or determine the

1 tax of an applicant under this subsection within 90 days of
2 the filing of all required final returns or reports in
3 accordance with section 806.1(a)(5) of the act of April 9,
4 1929 (P.L.343, No.176), known as The Fiscal Code.

5 (f) Purchasers and assignees.--The purchaser or assignee of
6 all or a portion of a tax credit under subsection (e) shall
7 immediately claim the tax credit in the taxable year in which
8 the purchase or assignment is made. The amount of the tax credit
9 that a purchaser or assignee may use against any one qualified
10 tax liability may not exceed 50% of such qualified tax liability
11 for the taxable year. The purchaser or assignee may not carry
12 forward, carry back or obtain a refund of or sell or assign the
13 tax credit. The purchaser or assignee shall notify the
14 Department of Revenue of the seller or assignor of the tax
15 credit in compliance with procedures specified by the Department
16 of Revenue.

17 Section 1756-D. Determination of Pennsylvania production
18 expenses.

19 In prescribing standards for determining which production
20 expenses are considered Pennsylvania production expenses for
21 purposes of computing the tax credit, the department shall
22 consider:

23 (1) The location where services are performed.

24 (2) The location where supplies are consumed.

25 (3) Other factors the department determines are
26 relevant.

27 Section 1757-D. Limitations.

28 (a) Cap.--In no case shall the aggregate amount of tax
29 credits awarded in a fiscal year under this subarticle exceed
30 \$1,000,000.

1 (b) Individual limitations.--The aggregate amount of video
2 game production tax credits awarded by the department under
3 section 1753-D(d) to a taxpayer for a video game may not exceed
4 25% of the qualified video game production expenses to be
5 incurred during each of the first four years that the video game
6 production expenses are incurred and 10% for each year
7 thereafter that the video game production expenses are incurred.
8 Section 1758-D. Penalty.

9 A taxpayer which claims a tax credit and fails to incur the
10 amount of qualified video game production expenses agreed to in
11 section 1753-D(c)(3) for a video game in that taxable year shall
12 repay to the Commonwealth the amount of the video game
13 production tax credit claimed under this subarticle for the
14 video game.
15 Section 1759-D. Pass-through entity.

16 (a) General rule.--If a pass-through entity has an unused
17 tax credit under section 1755-D, it may elect in writing,
18 according to procedures established by the Department of
19 Revenue, to transfer all or a portion of the tax credit to
20 shareholders, members or partners in proportion to the share of
21 the entity's distributive income to which the shareholder,
22 member or partner is entitled.

23 (b) Limitation.--A pass-through entity and a shareholder,
24 member or partner of a pass-through entity shall not claim the
25 tax credit under subsection (a) for the same qualified video
26 game production expense.

27 (c) Application.--A shareholder, member or partner of a
28 pass-through entity to whom a tax credit is transferred under
29 subsection (a) shall immediately claim the tax credit in the
30 taxable year in which the transfer is made. The shareholder,

1 member or partner may not carry forward, carry back, obtain a
2 refund of or sell or assign the tax credit.

3 Section 1760-D. Department guidelines and regulations.

4 The department shall develop written guidelines for the
5 implementation of the provisions of this subarticle. The
6 guidelines shall be in effect until such time as the department
7 promulgates regulations for the implementation of the provisions
8 of this subarticle. The department shall promulgate regulations
9 for the implementation of this subarticle within two years of
10 the effective date of this section.

11 Section 1761-D. Report to General Assembly.

12 (a) General rule.--No later than June 1 of the second year
13 that commences after the effective date of this section, and
14 September 1 of each year thereafter, the Secretary of Community
15 and Economic Development shall submit a report to the General
16 Assembly summarizing the effectiveness of the tax credit. The
17 report shall include the name of the video game produced, the
18 names of all taxpayers utilizing the tax credit as of the date
19 of the report and the amount of tax credits approved for,
20 utilized by or sold or assigned by each taxpayer. The report may
21 also include recommendations for changes in the calculation or
22 administration of the tax credit. The report shall be submitted
23 to the chairperson and minority chairperson of the
24 Appropriations Committee of the Senate and the chairperson and
25 minority chairperson of the Finance Committee of the Senate and
26 the chairperson and minority chairperson of the Appropriations
27 Committee of the House of Representatives and the chairperson
28 and minority chairperson of the Finance Committee of the House
29 of Representatives. In addition to the information stated in
30 this section, the report shall include the following information

1 which shall be separated by geographic location within this
2 Commonwealth:

3 (1) The amount of tax credits claimed by taxpayers
4 during the fiscal year.

5 (2) The total amount spent on video game production in
6 this Commonwealth during the fiscal year.

7 (3) The total amount of tax revenues collected from the
8 production of video games in this Commonwealth during the
9 fiscal year.

10 (4) The total number of jobs created by taxpayers during
11 the fiscal year, including the duration of the jobs.

12 (b) Public information.--Notwithstanding any law providing
13 for the confidentiality of tax records, the information in the
14 report shall be public information, and all report information
15 shall be posted on the department's publicly accessible Internet
16 website.

17 Section 31. (Reserved).

18 Section 32. (Reserved).

19 Section 33. The act is amended by adding articles to read:

20 ARTICLE XVII-J

21 COAL REFUSE ENERGY AND

22 RECLAMATION TAX CREDIT

23 Section 1701-J. Scope of article.

24 This article establishes a coal refuse energy and reclamation
25 tax credit in recognition of the significant and tangible
26 benefits to the environment and savings in Commonwealth funds
27 provided by eligible facilities in reclaiming coal refuse piles
28 and previously mined lands.

29 Section 1702-J. (Reserved).

30 Section 1703-J. Definitions.

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

4 "Affiliate." A person that directly or indirectly through
5 one or more intermediaries controls, is controlled by or is
6 under common control with a qualified taxpayer. For purposes of
7 this definition, the terms "control," "controlling," "controlled
8 by" and "under common control with" mean the possession,
9 directly or indirectly, of the power to direct or cause the
10 direction of management and policies of a person, whether
11 through the ownership of 20% or more of the voting securities,
12 capital interests, profit interests or any similar equity
13 interests in a business association of a person by contract or
14 otherwise.

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

17 "Eligible facility." An electric generating facility placed
18 in service before the effective date of this section consisting
19 of one or more units placed in service before the effective date
20 of this section that generates electricity located on the same
21 property and that:

22 (1) combusts qualified coal refuse or fuel composed of
23 at least 75% qualified coal refuse by BTU energy value in the
24 prior calendar year;

25 (2) utilizes at a minimum a circulating fluidized bed
26 combustion unit or pressurized fluidized bed combustion unit
27 equipped with a limestone injection system for control of
28 acid gases and a fabric filter particulate emission control
29 system; and

30 (3) beneficially uses ash produced by the facility in

1 the prior calendar year to reclaim mining-affected sites in
2 accordance with 25 Pa. Code Ch. 290 (relating to beneficial
3 use of coal ash) in amounts equal to at least 50% of the ash
4 produced by the facility in the prior calendar year.

5 "Pass-through entity." Any of the following:

6 (1) A partnership as defined in section 301(n.0).

7 (2) A Pennsylvania S corporation as defined in section
8 301(n.1).

9 (3) An unincorporated entity subject to section 307.21.

10 "Qualified coal refuse." Any waste coal, rock, shale,
11 slurry, culm, gob, boney, slate, clay and related materials
12 associated with or near a coal seam that are either brought
13 above ground or otherwise removed from a coal mine in the
14 process of mining coal or that are separated from coal during
15 the cleaning or preparation operations. The term includes
16 underground development wastes, coal processing wastes and
17 excess spoil, but does not include overburden from surface
18 mining activities.

19 "Qualified tax liability." The liability for taxes imposed
20 under Article III, IV, VI, VII, VIII, IX, XI or XV. The term
21 does not include tax withheld by an employer from an employee
22 under Article III.

23 "Qualified taxpayer." A person that owns an eligible
24 facility in this Commonwealth or is a transferor, purchaser,
25 affiliate or assignee of a person to which a tax credit
26 certificate is issued under this article.

27 "Tax credit." The coal refuse energy and reclamation tax
28 credit provided under this article.

29 "Ton." Two thousand pounds of qualified coal refuse,
30 including inherent moisture, ash, sulphur and other noncalorific

1 substances, but excluding excess moisture.

2 Section 1704-J. Application and approval of tax credit.

3 (a) Application.--The following shall apply:

4 (1) A qualified taxpayer may apply to the department for
5 a tax credit under this section. The application shall be on
6 the form required by the department.

7 (2) The application must be submitted to the department
8 by February 1 of each year for the tax credit claimed for
9 qualified coal refuse used at an eligible facility during the
10 prior calendar year.

11 (b) Amount.--Except as otherwise provided under section
12 1707-J, a qualified taxpayer shall receive a tax credit equal to
13 \$4 multiplied by the tons of qualified coal refuse used to
14 generate electricity at an eligible facility in this
15 Commonwealth by a qualified taxpayer in the previous calendar
16 year.

17 (c) Review and approval.--The following shall apply:

18 (1) The department shall review and approve applications
19 meeting the requirements of this article by March 20 of each
20 year.

21 (2) The department may require information necessary to
22 document that a facility qualifies as an eligible facility
23 and the amount of qualified coal refuse used to generate
24 electricity at the eligible facility.

25 (3) In the review of applications for tax credits, the
26 department shall consult with the Department of Environmental
27 Protection with respect to whether a facility qualifies as an
28 eligible facility and to review the eligible facility's
29 calculation of the amount of qualified coal refuse used to
30 generate electricity.

1 (3.1) Prior to approving an application, the applicant
2 must have:

3 (i) filed all required State tax reports and returns
4 for all applicable taxable years; and

5 (ii) paid any balance of State tax due as determined
6 by assessment or determination by the Department of
7 Revenue and not under timely appeal.

8 (4) Upon approval, the department shall issue a
9 certificate stating the amount of tax credit granted for
10 qualified coal refuse used in the prior calendar year.

11 (d) Expiration.--The department may not approve an
12 application for a tax credit under this article after December
13 31, 2026.

14 Section 1705-J. Claim of tax credit.

15 (a) General rule.--A qualified taxpayer may claim a tax
16 credit against the qualified tax liability of the qualified
17 taxpayer.

18 (b) Coal refuse use.--A tax credit may be claimed against a
19 qualified tax liability for a taxable year which begins in the
20 same calendar year that the qualified coal refuse was used at
21 the eligible facility to generate the tax credit.

22 Section 1706-J. Carryover and carryback.

23 (a) General rule.--If a qualified taxpayer does not use all
24 or any portion of a tax credit for the taxable year in which the
25 tax credit is first approved, then the excess may be carried
26 over to succeeding taxable years and used as a credit against
27 the qualified tax liability of the qualified taxpayer for those
28 taxable years. Each time the tax credit is carried over to a
29 succeeding taxable year, it shall be reduced by the amount that
30 was used as a credit during the immediately preceding taxable

1 year. The tax credit provided by this article may be carried
2 over and applied to succeeding taxable years for no more than 15
3 taxable years following the first taxable year for which the
4 taxpayer was entitled to claim the credit.

5 (b) No carryback or refund.--A qualified taxpayer is not
6 entitled to carry back or obtain a refund of all or any portion
7 of an unused tax credit granted to the qualified taxpayer under
8 this article.

9 Section 1707-J. Limitation on tax credits.

10 (a) Amount.--The total amount of tax credits issued by the
11 department may not exceed \$7,500,000 in fiscal year 2016-2017
12 and \$10,000,000 in each fiscal year thereafter.

13 (b) Proration.--If the total amount of otherwise approvable
14 tax credits applied for by all qualified taxpayers exceeds the
15 amount under subsection (a), the tax credit to be received by
16 each qualified taxpayer shall be the product of the amount under
17 subsection (a) multiplied by the quotient of the tax credits
18 otherwise approvable for the qualified taxpayer divided by the
19 total of all tax credits otherwise approvable for all qualified
20 taxpayers.

21 (c) Restriction.--Notwithstanding subsection (b), the
22 department may not grant more than 22.2% of the amount under
23 subsection (a) in tax credits to a single eligible facility in
24 any fiscal year.

25 Section 1708-J. Pass-through entity.

26 (a) Election.--If a tax credit certificate is issued to a
27 pass-through entity, the pass-through entity may elect in
28 writing, according to procedures established by the department,
29 to transfer all or a portion of the credit to shareholders,
30 members or partners in proportion to the share of the entity's

1 distributive income to which the shareholders, members or
2 partners are entitled or in any other manner designated by the
3 pass-through entity in accordance with its governance documents
4 and without regard to how distributive income, losses or credits
5 are allocated for other tax purposes.

6 (b) Limitation.--The same unused tax credit under subsection
7 (a) may not be claimed by:

8 (1) the pass-through entity; and

9 (2) a shareholder, member or patron of the pass-through
10 entity.

11 (c) Time.--A transferee under subsection (a) may only use a
12 tax credit during a taxable year for which use of the credit is
13 authorized under sections 1704-J(c) (4) and 1706-J.

14 Section 1709-J. Use of credits by affiliates.

15 In addition to reducing or eliminating the qualified tax
16 liability of a qualified taxpayer, a tax credit under this
17 article may be applied to reduce or eliminate the qualified tax
18 liability of any affiliate of a qualified taxpayer. An affiliate
19 may only use a tax credit during a taxable year for which use of
20 the credit is authorized under sections 1704-J(c) (4) and 1706-J.

21 Section 1710-J. Sale or assignment.

22 (a) Authorization.--Upon approval by the Department of
23 Revenue, a qualified taxpayer may sell or assign, in whole or in
24 part, a tax credit granted to the taxpayer under this article.

25 (b) Application.--The following shall apply:

26 (1) To sell or assign a tax credit, a qualified taxpayer
27 must file an application for the sale or assignment of the
28 tax credit with the Department of Revenue. The application
29 must be on a form required by the Department of Revenue.

30 (2) The Department of Revenue shall approve a sale or

1 assignment if the purchaser or assignee has:

2 (i) filed all required State tax reports and returns
3 for all applicable taxable years; and

4 (ii) paid any balance of State tax due as determined
5 by assessment or determination by the Department of
6 Revenue and not under timely appeal.

7 Section 1711-J. Purchasers and assignees.

8 (a) Claim.--The purchaser or assignee of all or a portion of
9 a tax credit under section 1710-J shall immediately claim the
10 credit in the taxable year in which the purchase or assignment
11 is made.

12 (b) Amount.--The amount of the tax credit that a purchaser
13 or assignee may use against any one qualified tax liability may
14 not exceed 75% of such qualified tax liability for the taxable
15 year.

16 (c) Use.--The purchaser or assignee may not carry forward,
17 carry back or obtain a refund of or sell or assign the tax
18 credit.

19 Section 1712-J. Administration.

20 (a) Audits and assessments.--The Department of Revenue has
21 the following powers:

22 (1) To audit a qualified taxpayer claiming a tax credit
23 to ascertain the validity of the amount claimed.

24 (2) To issue an assessment against a qualified taxpayer
25 for an improperly issued tax credit. The procedures,
26 collection, enforcement and appeals of any assessment made
27 under this section shall be governed by Article IV.

28 (b) Guidelines.--The department shall develop written
29 guidelines for the implementation of this article.

30 Section 1713-J. Annual report to General Assembly.

1 By October 1, 2017, and October 1 of each year thereafter,
2 the department shall submit a report on the tax credit provided
3 by this article to the chairperson and minority chairperson of
4 the Appropriations Committee of the Senate, the chairperson and
5 minority chairperson of the Finance Committee of the Senate, the
6 chairperson and minority chairperson of the Appropriations
7 Committee of the House of Representatives and the chairperson
8 and minority chairperson of the Finance Committee of the House
9 of Representatives. The report must include:

10 (1) the names of the qualified taxpayers utilizing the
11 tax credit as of the date of the report and the amount of tax
12 credits approved for, utilized by or sold or assigned by a
13 qualified taxpayer; and

14 (2) data concerning the benefits provided to the
15 Commonwealth in terms of the quantity of coal refuse utilized
16 by qualifying facilities and the volume of coal ash generated
17 by qualifying facilities which is beneficially used to
18 reclaim mine-affected lands.

19 Section 1714-J. Applicability.

20 The tax credit established under this article shall apply to
21 taxable years beginning after December 31, 2015.

22 ARTICLE XVII-K

23 WATERFRONT DEVELOPMENT TAX CREDIT

24 Section 1701-K. Scope of article.

25 This article relates to the Waterfront Development Tax
26 Credit.

27 Section 1702-K. Definitions.

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

1 "Business firm." An entity authorized to do business in this
2 Commonwealth and subject to taxes imposed under Article III, IV,
3 VI, VII, VIII, IX or XV or the tax under Article XVI of the act
4 of May 17, 1921 (P.L.682, No.284), known as The Insurance
5 Company Law of 1921. The term includes a pass-through entity.

6 "Contribution." A donation of cash or personal property made
7 by a business firm to a waterfront development organization to
8 fund a waterfront development project under this article.

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

11 "Pass-through entity." Any of the following:

12 (1) A partnership as defined under section 301(n.0).

13 (2) A Pennsylvania S corporation as defined under
14 section 301(n.1).

15 (3) An unincorporated entity subject to section 307.21.

16 "Tax credit." The waterfront development tax credit
17 authorized by this article.

18 "Waterfront." A site that is directly adjacent to a body of
19 water.

20 "Waterfront development organization." An authority
21 established under the act of December 6, 1972 (P.L.1392,
22 No.298), known as the Third Class City Port Authority Act, or a
23 nonprofit entity that meets all of the following:

24 (1) For a nonprofit entity, is exempt from Federal
25 taxation under section 501(c)(3) of the Internal Revenue Code
26 of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

27 (2) Has been in existence for a minimum of five years.

28 (3) Has a board of directors which meets at least once
29 annually.

30 (4) Has completed a waterfront development plan.

1 "Waterfront development plan." A plan approved by the
2 Department of Community and Economic Development that meets all
3 of the following:

4 (1) Provides for the development or enhancement of
5 waterfront property that creates public access to the water,
6 increases property values, restores ecology and catalyzes
7 further financial investment and job creation to incentivize
8 future economic development.

9 (2) Adheres to current environmental practices.

10 (3) Considers and integrates approaches that support
11 natural and native habitat.

12 (4) Considers and integrates architectural and landscape
13 design elements and standards.

14 "Waterfront development project." A project to develop a
15 waterfront site or area or a project that creates or improves
16 public access and connections to the waterfront. The term may
17 include:

18 (1) Streets and public rights-of-way.

19 (2) Waterfront parks, gardens and open spaces.

20 (3) Enhancement of access to public utilities.

21 (4) The promotion of erosion control, storm water
22 management and other environmental projects that promote
23 economic development.

24 (5) Water transportation facilities for use by the
25 public, including water transit landings and boat docking.

26 (6) Amenities, including infrastructure and recreational
27 projects.

28 Section 1703-K. Waterfront Development Tax Credit Program.

29 The Waterfront Development Tax Credit Program is established
30 in the department to encourage private investment in waterfront

1 property that creates public access to the water, increases
2 property values, restores ecology and catalyzes further
3 financial investment and job creation.

4 Section 1704-K. Waterfront development organizations.

5 (a) Applications.--An application to qualify as a waterfront
6 development organization must be submitted on a form and in a
7 manner as required by the department.

8 (b) Information.--An application to qualify as a waterfront
9 development organization shall include all of the following:

10 (1) Confirmation that the organization is a waterfront
11 development organization.

12 (2) The age of the organization.

13 (3) The board of directors meeting schedule.

14 (4) Waterfront development plans completed within the
15 last five years.

16 (5) A list of completed, ongoing and planned waterfront
17 development projects.

18 (c) Approval.--No later than 60 days after a waterfront
19 development organization has submitted an application under this
20 section, the department shall notify a waterfront development
21 organization if the organization meets the requirements of this
22 section for the current fiscal year.

23 (d) Renewal of waterfront organization status.--A waterfront
24 development organization shall annually file a renewal
25 application on a form provided by the department to maintain
26 eligibility as a waterfront development organization. The
27 renewal application shall include:

28 (1) The total number of waterfront development projects
29 funded, by municipality, during the immediately preceding
30 year.

1 (2) The total amount expended for waterfront development
2 projects, by municipality, during the immediately preceding
3 year.

4 (3) The total amount expended on waterfront development
5 projects, by municipality, attributable to contributions from
6 business firms.

7 (4) The number of waterfront development projects
8 completed, by municipality, during the immediately preceding
9 year.

10 (5) A copy of the Federal Form 990 or other Federal form
11 of the waterfront development organization that indicates the
12 tax status of the organization for Federal tax purposes, if
13 any.

14 (6) A copy of a compilation, review or audit of the
15 financial statements of the waterfront development
16 organization conducted by a certified public accounting firm.

17 Section 1705-K. Waterfront development projects.

18 (a) General rule.--To qualify for a tax credit,
19 contributions made to a waterfront development organization must
20 be used by the waterfront development organization for a
21 waterfront development project approved under this section.

22 (b) Submission.--After approval of a waterfront development
23 organization's application under section 1704-K(c), the
24 organization may submit, on a form and in a manner required by
25 the department, waterfront development projects for approval by
26 the department. The submission shall include for each waterfront
27 development project:

28 (1) The location of the waterfront development project.

29 (2) The type of waterfront development project.

30 (3) A detailed description of the waterfront development

1 project, including architectural and engineering drawings.

2 (4) The status of the waterfront development project.

3 (5) The anticipated start date and completion date for
4 the waterfront development project.

5 (6) The life expectancy of the waterfront development
6 project and a plan for maintenance following completion.

7 (7) The estimated cost of the waterfront development
8 project.

9 (8) Analysis of the direct current and future economic
10 benefits derived from the waterfront development project,
11 including indirect and direct job creation projections.

12 (9) The manner in which the waterfront development
13 organization will do all of the following:

14 (i) Verify eligibility of costs.

15 (ii) Monitor progress of the waterfront development
16 project.

17 (iii) Assure that contributions received are used
18 for the waterfront development project for which the
19 contributions have been designated.

20 (10) Any other information required by the department.

21 (c) Review of applications.--The department, in conjunction
22 with the Department of Conservation and Natural Resources, shall
23 review applications received from waterfront development
24 organizations under this section.

25 (d) Notice of approval or disapproval.--

26 (1) Within 60 days after receipt of an application, the
27 department shall notify the waterfront development
28 organization of its approval or disapproval of a waterfront
29 development project.

30 (2) If the application is disapproved, the notice of

1 disapproval shall include the reasons for disapproval.

2 (3) A waterfront development organization may resubmit
3 the application within 30 days after receipt of a notice of
4 disapproval.

5 (e) Publication.--The department shall annually publish a
6 list of each waterfront development organization, its approved
7 waterfront development projects under this section and the total
8 aggregate cost of the waterfront development projects in the
9 Pennsylvania Bulletin. The list shall be posted and updated as
10 necessary on the publicly accessible Internet website of the
11 department.

12 (f) Completion.--Upon completion of a waterfront development
13 project approved under subsection (b), the waterfront
14 development organization shall submit written notice of project
15 completion to the department. The notice shall include all of
16 the following information:

17 (1) Certification that the waterfront development
18 project is complete.

19 (2) An upkeep and maintenance plan, if applicable, to
20 the waterfront development project.

21 (3) Any other information required by the department.

22 (g) Inspection.--Waterfront development projects approved
23 under subsection (b) may be subject to inspection by the
24 department or its designated agent.

25 (h) Administrative fees.--No more than 5% of the
26 contributions received under this article may be used for
27 administrative fees.

28 Section 1706-K. Tax credit.

29 (a) General rule.--A business firm that provides
30 contributions to a waterfront development organization to fund

1 waterfront development projects approved by the department under
2 section 1705-K shall receive a tax credit as provided in section
3 1707-K, within the limitations of section 1708-K, if the
4 department approves the waterfront development projects. The
5 application must specify the waterfront development organization
6 the contribution is being made to and the waterfront development
7 projects being conducted by the organization.

8 (b) Rules and regulations.--

9 (1) The department may promulgate rules and regulations
10 for the approval or disapproval of applications by business
11 firms.

12 (2) The department shall provide a report listing all
13 applications received and the disposition of the applications
14 in each fiscal year to the General Assembly by October 1 of
15 the following fiscal year. The department's report shall
16 include all taxpayers utilizing the tax credit and the amount
17 of tax credits approved, sold or assigned.

18 (3) Notwithstanding any law providing for the
19 confidentiality of tax records, the information in the report
20 shall be public information and all report information shall
21 be posted on the department's publicly accessible Internet
22 website.

23 (c) Availability of tax credits.--Tax credits shall be made
24 available by the department on a first-come, first-served basis
25 within the limitation established under section 1708-K.

26 (d) Sale or assignment of tax credits.--

27 (1) A taxpayer, upon application to and approval by the
28 department, may sell or assign, in whole or in part, a
29 waterfront development tax credit granted to the business
30 firm under this article if no claim for allowance of the

1 credit is filed within one year from the date the credit is
2 granted by the Department of Revenue under section 1707-K.
3 The department and the Department of Revenue shall jointly
4 promulgate guidelines for the approval of applications under
5 this subsection.

6 (2) The purchaser or assignee of a waterfront
7 development tax credit under subsection (d) shall immediately
8 claim the tax credit in the taxable year in which the
9 purchase or assignment is made.

10 (3) The purchaser or assignee may not carry over, carry
11 back, obtain a refund of or sell or assign the tax credit.

12 (4) The purchaser or assignee shall notify the
13 Department of Revenue of the seller or assignor of the
14 waterfront development tax credit in compliance with
15 procedures specified by the Department of Revenue.

16 (e) Application of tax credit.--The waterfront development
17 tax credit approved by the department shall be applied against
18 the business firm's tax liability for the taxes under section
19 1707-K for the current taxable year as of the date on which the
20 tax credit was approved before the waterfront development tax
21 credit may be carried over, sold or assigned.

22 Section 1707-K. Grant of tax credits.

23 (a) General rule.--The Department of Revenue shall grant a
24 tax credit against any tax due under Article III, IV, VI, VII,
25 VIII, IX or XV or Article XVI of the act of May 17, 1921
26 (P.L.682, No.284), known as The Insurance Company Law of 1921,
27 or any tax substituted in lieu thereof.

28 (b) Prohibition.--A tax credit may not be granted for fiscal
29 years prior to fiscal year 2017-2018.

30 Section 1708-K. Limitations.

1 The following limitations shall apply to the tax credits:

2 (1) No tax credit may exceed 75% of the total
3 contribution made by a business firm during a taxable year.

4 (2) No tax credit shall be granted to a business firm
5 for activities that are a part of its normal course of
6 business or in which the business firm has a pecuniary
7 interest.

8 (3) A tax credit not used in the period the contribution
9 or investment was made may be carried over for the next five
10 succeeding calendar or fiscal years until the full credit has
11 been allowed. No business firm may carry back or obtain a
12 refund of an unused tax credit.

13 (4) The total amount of all tax credits shall not exceed
14 \$1,500,000 in any one fiscal year.

15 (5) In any one fiscal year, the department may not
16 approve more tax credits for contributions made to a
17 waterfront development organization than the total aggregate
18 cost of waterfront development projects approved under
19 section 1705-K(d).

20 Section 1709-K. Decision in writing.

21 The decision of the department to approve or disapprove a
22 project under section 1705-K(d) shall be in writing and, if the
23 project is approved by the department, it shall state the
24 maximum credit allowable to the business firm. A copy of the
25 decision of the department shall be transmitted to the Governor
26 and to the Secretary of Revenue.

27 Section 1710-K. Pass-through entity.

28 (a) General rule.--If a pass-through entity has an unused
29 tax credit under section 1707-K, the entity may elect, in
30 writing, according to the department's procedures, to transfer

1 all or a portion of the tax credit to shareholders, members or
2 partners in proportion to the share of the entity's distributive
3 income to which the shareholder, member or partner is entitled.

4 (b) Limitations.--

5 (1) The credit provided under subsection (a) is in
6 addition to any waterfront development tax credit to which a
7 shareholder, member or partner of a pass-through entity is
8 otherwise entitled under this article. However, a pass-
9 through entity and a shareholder, member or partner of a
10 pass-through entity may not claim a credit under this article
11 for the same waterfront development project.

12 (2) A shareholder, member or partner of a pass-through
13 entity to whom credit is transferred under subsection (a)
14 must immediately claim the credit in the taxable year in
15 which the transfer is made.

16 (3) The shareholder, member or partner may not carry
17 forward, carry back, obtain a refund of or sell or assign the
18 credit.

19 Section 33.1. Section 1801-B of the act is amended by adding
20 a definition to read:

21 Section 1801-B. Definitions.

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

25 * * *

26 "Veteran." An individual who served on active duty in the
27 United States Armed Forces, including any of the following:

28 (1) A reservist or member of the National Guard who was
29 discharged or released from the service under honorable
30 conditions.

1 (2) A reservist or member of the National Guard who
2 completed an initial term of enlistment or qualifying period
3 of service.

4 (3) A reservist or member of the National Guard who was
5 disabled in the line of duty during training.

6 * * *

7 Section 33.2. Section 1804-B(a) and (d) of the act, amended
8 July 2, 2012 (P.L.751, No.85) and July 9, 2013 (P.L.270, No.52),
9 are amended to read:

10 Section 1804-B. Tax credits.

11 (a) Maximum amount.--A company may claim a tax credit of
12 \$1,000 per new job created, or \$2,500 per each new job created
13 if the newly created job is filled by a veteran or an unemployed
14 individual, up to the maximum job creation tax credit amount
15 specified in the commitment letter.

16 * * *

17 (d) Tax credit term.--

18 (1) A company may claim the job creation tax credit for
19 each new job created, as approved by the department, for a
20 one-year, two-year or three-year period as authorized by the
21 department, except that no tax credit may be claimed for more
22 than five years from the date the company first submits a job
23 creation tax credit certificate. The department may award the
24 total amount of tax credit authorized for a multiple-year tax
25 credit in the first year in which the new job is created and
26 the tax credit earned.

27 (2) Notwithstanding the provisions of paragraph (1),
28 nothing in this article shall be construed to prohibit the
29 Department of Community and Economic Development from
30 awarding the total amount of tax credit authorized for a

1 multiple-year tax credit in the first year in which the new
2 job is created and the tax credit earned.

3 * * *

4 Section 34. Section 1802-C of the act, amended or added July
5 9, 2013 (P.L.270, No.52) and October 31, 2014 (P.L.2929,
6 No.194), is amended to read:

7 Section 1802-C. Definitions.

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

11 "Baseline tax amount." The amount of State or local eligible
12 taxes paid relating to each qualified business that is not a new
13 business, less eligible State or local tax refunds, relating to
14 each qualified business for the first full calendar year in
15 which the qualified business established a presence in the zone.

16 "Baseline year." The calendar year in which a zone was
17 established.

18 "Bond." The term includes any public or private financing,
19 note, mortgage, loan, deed of trust, instrument, refunding note
20 or other evidence of indebtedness or obligation.

21 "Business personal property." The term includes furniture,
22 fixtures, equipment and other similar property purchased and
23 used in the zone.

24 "City." A city of the second class A or third class or a
25 home rule municipality with a population of at least [30,000]
26 20,000 based on the most recent Federal decennial census. [The
27 term shall not include a city that has had a receiver appointed
28 under Chapter 7 of the act of July 10, 1987 (P.L.246, No.47),
29 known as the Municipalities Financial Recovery Act.]

30 "City revitalization and improvement zone." An area of not

1 more than 130 acres, that may include an area in one or more
2 contiguous municipalities, comprised of parcels designated by
3 the contracting authority, which will provide economic
4 development and job creation within a city.

5 "Contracting authority." [An authority established under 53
6 Pa.C.S. Ch. 56 (relating to municipal authorities) by a city,
7 borough, township or home rule county for the purpose of:

8 (1) designating zones; and

9 (2) engaging in the construction, including related site
10 preparation and infrastructure, reconstruction or renovation
11 of facilities.] A new or existing authority established or
12 designated by a city, municipality or home rule county to
13 designate and administer zones. The term shall include:

14 (i) An authority established under 53 Pa.C.S. Ch. 56
15 (relating to municipal authorities).

16 (ii) An authority established under the former act
17 of December 27, 1994 (P.L.1375, No.162), known as the
18 Third Class County Convention Center Authority Act, or
19 under Article XXIII(n) or (o) of the act of August 9,
20 1955 (P.L.323, No.130), known as the County Code.

21 (iii) An authority established by a contiguous
22 municipality under 53 Pa.C.S. Ch. 56 for the purposes of
23 this act.

24 "Department." The Department of Revenue of the Commonwealth.

25 "Earned income tax." A tax imposed on earned income within a
26 zone under the act of December 31, 1965 (P.L.1257, No.511),
27 known as The Local Tax Enabling Act, which a city, or a school
28 district contained entirely within the boundaries of or
29 coterminous with the city, is entitled to receive.

30 "Eligible tax." Any of the following taxes:

1 (1) Corporate net income tax, capital stock and
2 franchise tax, bank shares tax, personal income tax paid by
3 shareholders, members or partners of Subchapter S
4 corporations, limited liability companies, partnerships or
5 sole proprietors on income other than passive activity income
6 as defined under section 469 of the Internal Revenue Code of
7 1986 (Public Law 99-516, 26 U.S.C. § 1 et seq.) or business
8 privilege tax, calculated and apportioned as to amount
9 attributable to the location within the zone and calculated
10 under section 1904-B(b) and (c).

11 (2) Amusement tax, only to the extent the tax is related
12 to the activity of a qualified business within the zone.

13 (3) Sales and use tax, only to the extent the tax is
14 related to the activity of a qualified business within the
15 zone. The term includes sales and use taxes on material used
16 for construction in the zone and business personal property
17 to be used by the qualified business in the zone.

18 (3.1) The hotel occupancy tax imposed under Part V of
19 Article II.

20 (4) Personal income tax withheld from its employees by a
21 qualified business for work performed in the zone.

22 (5) Local services tax withheld from its employees by a
23 qualified business for work performed in the zone.

24 (6) Earned income tax withheld from its employees by a
25 qualified business for work performed in the zone.

26 (7) [Tax] All taxes paid to the Commonwealth [on the],
27 or an amount equal to all of the taxes paid to the
28 Commonwealth, related to the purchase or sale of liquor, wine
29 or malt or brewed beverages by a licensee located in the zone
30 for purchases that occurred outside the zone.

1 The term does not include cigarette tax.

2 "Facility." A structure or complex of structures in a zone
3 to be used for commercial, industrial, sports, exhibition,
4 hospitality, conference, retail, community, office, recreational
5 or mixed-use purposes.

6 "Increment." The amount of eligible taxes generated by a new
7 business, taxes excluded from the baseline tax amount pursuant
8 to section 1810-C(b)(3), and amount of eligible taxes generated
9 by a qualified business above the qualified business's baseline
10 tax amount.

11 "Infrastructure." Any improvements in or out of the zone
12 primarily related to the development of and required by a
13 facility in the zone, including, but not limited to, utilities,
14 water, sewer, storm water, parking, road improvements or
15 telecommunications within the city or municipality or within a
16 municipality contiguous to that city or municipality.

17 "Licensee" shall mean an individual licensed under the act of
18 April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

19 "Lobbyist." As defined in 65 Pa.C.S. § 13A03 (relating to
20 definitions).

21 "Municipality." An incorporated town, township or borough.

22 "New business." Any of the following:

23 (1) any new or separate legal entity that locates or has
24 a location in the zone; or

25 (2) a business already located in this Commonwealth and
26 conducting operations outside the zone which expands into the
27 zone with a new operation as evidenced by a new facility,
28 business personal property, products or additional employees
29 and continues operations outside the zone without substantial
30 change in business. Only eligible taxes related to activity

1 within the zone shall be attributable to the location in the
2 zone.

3 "Office." The Office of the Budget.

4 "Pilot zone." An area of not more than [130] 100 acres
5 designated by the contracting authority following application
6 and approval by the Department of Community and Economic
7 Development, the office and the department which will provide
8 economic development and job creation within [a township or
9 borough] one or more municipalities, with a total population of
10 at least 7,000 based on the most recent Federal decennial
11 census.

12 "Professional services." Any of the following:

13 (1) Legal services.

14 (2) Advertising or public relations services.

15 (3) Engineering services.

16 (4) Architectural, landscaping or surveying services.

17 (5) Accounting, auditing or actuarial services.

18 (6) Security consultant services.

19 (7) Computer and information technology services, except
20 telephone service.

21 (8) Insurance underwriting services.

22 (9) Compliance services.

23 (10) Financial auditing services.

24 "Qualified business." As follows:

25 (1) An entity located or partially located in a zone
26 which meets the requirements of all of the following:

27 (i) Has conducted an active trade or business in the
28 zone.

29 (ii) Appears on the timely filed list under section
30 1807-C(a).

1 (2) A construction contractor engaged in construction,
2 including infrastructure or site preparation, reconstruction
3 or renovation of a facility [located in or partially in the
4 zone].

5 (3) The term does not include an agent, broker or
6 representative of a business.

7 "Zone." Any of the following:

8 (1) A city revitalization and improvement zone.

9 (2) A pilot zone.

10 "Zone Fund." A city revitalization and improvement zone or
11 pilot zone fund established under section 1808-C.

12 Section 35. Section 1803-C heading and (a) of the act,
13 amended October 31, 2014 (P.L.2929, No.194), are amended to
14 read:

15 Section 1803-C. Establishment or designation of contracting
16 authority.

17 (a) Authorization.--Except as set forth in subsection (b), a
18 city, [borough or township] municipality or home rule county may
19 establish or designate a contracting authority to designate a
20 zone under this article.

21 * * *

22 Section 36. The act is amended by adding a section to read:
23 Section 1803.1-C. Contracting authority duties.

24 A contracting authority shall:

25 (1) Hold at least one public hearing on the plan for the
26 designation of a zone. At the public hearing, any interested
27 party may be heard.

28 (2) Prior to designation of the zone, post the name and
29 address of the owner of each business and property to be
30 located within the zone and a map of the zone on the website

1 of the city or municipality where the zone will be located,
2 if one exists. If a website does not exist, the map and list
3 of names shall be published in a newspaper of general
4 circulation serving the county where the zone is located. The
5 map and list of names shall be made available for public
6 inspection.

7 (3) Issue bonds and engage in the financing,
8 construction, acquisition, development, related site
9 preparation and infrastructure, reconstruction or renovation
10 of facilities in accordance with this article.

11 Section 37. Sections 1804-C, 1806-C, 1807-C, 1808-C, 1809-C,
12 1810-C, 1811-C, 1812-C, 1813-C, 1814-C, 1816-C and 1818-C of the
13 act, added July 9, 2013 (P.L.270, No.52), are amended to read:
14 Section 1804-C. Approval.

15 (a) Submission.--A contracting authority may apply to the
16 Department of Community and Economic Development for approval of
17 a zone plan. The application must include all of the following:

18 (1) A plan to establish one or more facilities which
19 will promote economic development.

20 (2) An economic development plan, including a plan for
21 the repayment of all bonds.

22 (3) Specific information relating to the facility which
23 will be constructed, including infrastructure and site
24 preparation, reconstructed or renovated as part of the plan.

25 (4) Other information as required by the Department of
26 Community and Economic Development, the office or the
27 department.

28 (5) A designation of the specific geographic area,
29 including parcel numbers and a map of the zone with parcel
30 numbers, of which the zone will consist.

1 (b) Agencies.--The Department of Community and Economic
2 Development, the office and the department must approve each
3 application.

4 (b.1) Review.--The Department of Community and Economic
5 Development, the department and the office shall consider the
6 following when determining a designation:

7 (1) Economic impact of the zone.

8 (2) Number of jobs that will be created.

9 (3) Potential State and local tax revenue impact.

10 (4) Financial fitness and ability of the applicant to
11 repay bonds.

12 (5) The proximity to previously approved zones.

13 (6) Any other relevant factor.

14 (c) Approval schedule.--The Department of Community and
15 Economic Development shall develop a schedule for the approval
16 of applications under this section as follows:

17 (1) Following the effective date of this paragraph,
18 applications for two initial city revitalization and
19 improvement zones and one pilot zone may be approved.

20 (2) Beginning in 2016, applications for two additional
21 zones may be approved each calendar year.

22 [(3) Following the effective date of this paragraph, the
23 Department of Community and Economic Development, the office
24 and the department, may approve one pilot zone.]

25 (c.1) Agreement.--An area that covers contiguous cities or
26 municipalities shall require an agreement among each participant
27 to be included in the zone, evidenced by a resolution of each
28 participant.

29 (d) Time.--[An application under this section shall be
30 approved or disapproved within 90 days of the postmark date of

1 submission. An application which is not disapproved within the
2 time period under this subsection shall be deemed to be
3 approved.] The Department of Community and Economic Development
4 shall establish and publish application deadlines in the
5 Pennsylvania Bulletin and on its publicly accessible Internet
6 website.

7 (e) Reapplication.--If an application is not approved under
8 this section, the applicant may revise and resubmit the
9 application and plan [and reapply] for approval.

10 (f) Limitation.--No more than one zone may exist in a city
11 or municipality at any given time.

12 Section 1806-C. Functions of contracting authorities.

13 (a) Powers.--The contracting authority may do all of the
14 following:

15 (1) Designate a zone where a facility may be acquired,
16 constructed, including infrastructure and site preparation,
17 reconstructed or renovated.

18 (2) [Provide or borrow money for any of the following
19 purposes:

20 (i) Development or improvement within a zone.

21 (ii) Construction, including infrastructure and site
22 preparation, reconstruction or renovation of a facility
23 within a zone which will result in economic development
24 in accordance with the contracting authority's plan.]
25 Engage in the acquisition, development, construction,
26 including infrastructure and site preparation,
27 reconstruction or renovation of facilities.

28 (3) Engage in the public or private financing of the
29 acquisition, development, construction, including
30 infrastructure and site preparation, reconstruction or

1 renovation of facilities.

2 (4) Utilize money under section 1813-C.

3 (b) Money from fund.--A member of the contracting authority
4 may not receive money directly or indirectly from the fund.

5 (c) Prohibitions.--The following shall apply:

6 (1) A member, officer or employee of the contracting
7 authority or a member of the governing body or the chief
8 executive officer of the city, municipality or home rule
9 county that created the contracting authority may not:

10 (i) Receive money from the zone fund for personal
11 use.

12 (ii) Have a direct ownership interest in a property
13 or parcel included in the zone.

14 (2) No member, officer, director or employee of the
15 contracting authority, no member of the governing body and no
16 chief executive officer may:

17 (i) Solicit, accept or receive from a person, firm,
18 corporation or other business or professional
19 organization doing business in the zone or with the
20 contracting authority a gift or a gratuity. This
21 subparagraph shall not apply to a gift or business
22 entertainment of less than \$250.

23 (ii) Directly or indirectly use for personal gain
24 information not available to the public concerning the
25 development of a project which comes to that individual
26 as a result of the affiliation with the contracting
27 authority city or municipality involved in the
28 development or operation of the zone.

29 (c.1) Disclosure.--The board of directors of the contracting
30 authority, governing body of a city or municipality, consultant,

1 lobbyist or independent contractor of the contracting authority,
2 city or municipality or home rule county creating the
3 contracting authority must disclose the nature and extent of any
4 financial interest as defined in 65 Pa.C.S. Ch. 11 (relating to
5 ethics standards and financial disclosure) or that of his or her
6 immediate family in property within the zone to the contracting
7 authority, the city or municipality where the zone is located
8 and to the Department of Community and Economic Development. The
9 Department of Community and Economic Development must place the
10 disclosures on the Department of Community and Economic
11 Development's publicly accessible Internet website.

12 (d) Action by contracting authority.--The board of directors
13 of the contracting authority or the governing body of a city or
14 municipality in which the zone is located must avoid a conflict
15 of interest or impropriety with regard to a property or project
16 in the zone or the operation or management of the zone. Each
17 disclosure statement shall be made a part of the minutes of the
18 contracting authority, city or municipality at a regular or
19 special meeting.

20 (e) Copy.--The contracting authority must provide a copy of
21 the disclosure under this section to each member, officer,
22 director, employee, consultant, lobbyist and independent
23 contractor of the contracting authority or governing body of the
24 city or municipality in which the zone is located.

25 (f) Disciplinary action.--The contracting authority shall
26 refer suspected violations to the State Ethics Commission or the
27 county district attorney, if appropriate.

28 (g) Ethics.--A member of the contracting authority must
29 comply with 65 Pa.C.S. Ch. 11 (relating to ethics, standards and
30 financial disclosure).

1 Section 1807-C. Qualified businesses.

2 (a) List.--By June 1 following the end of the baseline year,
3 and for every year thereafter, each contracting authority shall
4 file with the department a complete list of all businesses
5 located in the zone and all [construction contractors]
6 businesses engaged in [construction,] acquisition, development,
7 construction, including infrastructure and site preparation,
8 reconstruction or renovation of a facility in the zone in the
9 prior calendar year. The list shall include for each business
10 the address, the names of the business owners or corporate
11 officers, State tax identification number and parcel number and
12 a map of the zone with parcel numbers.

13 (b) Time.--If the list under subsection (a) is not timely
14 provided to the department, no eligible State tax shall be
15 certified by the department for the prior calendar year.

16 (c) Audit.--The contracting authority shall hire an
17 independent auditing firm to perform an annual audit verifying
18 all of the following[:]
19 and shall submit the audit to the
20 Department of Community and Economic Development and the
21 Department of Revenue as well as post on the contracting
22 authority's publicly accessible Internet website:

23 (1) The correct amount of the eligible local tax was
24 submitted to the local taxing authorities.

25 (2) The local taxing authorities transferred the correct
26 amount of eligible local tax to the State Treasurer.

27 (3) The moneys transferred to the fund were [properly]
28 expended in accordance with this article.

29 (4) The correct amount was requested under section 1812-
30 C(c).

Section 1808-C. Funds.

1 (a) Notice.--Following the designation of a zone, the
2 contracting authority shall notify the State Treasurer.

3 (b) Establishment.--Upon receipt of notice under subsection
4 (a), the State Treasurer shall establish for each zone a special
5 fund for the benefit of the contracting authority to be known as
6 the City Revitalization and Improvement Zone Fund or Pilot Zone
7 Fund. Interest income derived from investment of money in [a]
8 the zone fund shall be credited by the State Treasury to the
9 zone fund.

10 Section 1809-C. Reports.

11 (a) State zone report.--[By] No later than June 15 following
12 the baseline year and each year thereafter, each qualified
13 business shall file a report with the department in a form or
14 manner required by the department which includes all of the
15 following:

16 (1) Amount of each eligible tax which was paid to the
17 Commonwealth by the qualified business in the prior calendar
18 year.

19 (2) Amount of each eligible tax refund received from the
20 Commonwealth in the prior calendar year by the qualified
21 business.

22 (b) Local zone report.--[By] No later than June 15 following
23 the baseline year and for each year thereafter, each qualified
24 business shall file a report with the local taxing authority
25 which includes all of the following:

26 (1) Amount of each eligible tax which was paid to the
27 local taxing authority by the qualified business in the prior
28 calendar year.

29 (2) Amount of each eligible tax refund received from the
30 local taxing authority in the prior calendar year by the

1 qualified business.

2 (c) Penalties.--

3 (1) Failure to file a timely and complete report under
4 subsection (a) or (b) may result in the imposition of a
5 penalty of the lesser of:

6 (i) ten percent of all eligible tax due the taxing
7 authority in the prior calendar year; or

8 (ii) one thousand dollars.

9 (2) A penalty for a violation of subsection (a) shall be
10 imposed, assessed and collected by the department under
11 procedures set forth in Article II. Money collected under
12 this paragraph shall be deposited in the General Fund.

13 (3) A penalty for a violation of subsection (b) shall be
14 imposed, assessed and collected by the [political
15 subdivision] city or municipality under procedures for
16 imposing penalties under local tax collection laws.

17 (4) If a local taxing authority imposes the penalty, the
18 money shall be transferred to the State Treasurer for deposit
19 in the zone fund [of the contracting authority].

20 Section 1810-C. Calculation of baseline.

21 (a) Baseline tax amount.--By October 15 following the end of
22 the baseline year and for each year thereafter, the department
23 shall verify the State baseline tax amount for each qualified
24 business in a zone which consists of the following:

25 (1) For each qualified [businesses that file] business
26 that files timely State zone reports under section 1809-C(a),
27 the amount of eligible State tax paid, less State eligible
28 [State] tax refunds.

29 (2) For each qualified [businesses] business not
30 included under paragraph (1) but located or partially located

1 in the zone as determined by the department or included in
2 the information received by the department under section
3 1809-C(a), the amount of State eligible [State] tax paid,
4 less State eligible [State] tax refunds.

5 (b) Moves and noninclusions.--

6 (1) This subsection applies to a qualified business
7 that:

8 (i) moves into a zone from within this Commonwealth
9 after the baseline year; or

10 (ii) is in a zone but not included in the
11 calculation of the State baseline tax amount under
12 subsection (a).

13 (2) A qualified business subject to paragraph (1) shall
14 file a State zone report under section 1809-C following the
15 end of the first full calendar year in which the qualified
16 business conducted business in the zone and each calendar
17 year thereafter. The amount of eligible State tax verified by
18 the department for the qualified business for the [prior
19 calendar year shall be added to the State baseline tax amount
20 for the zone for the prior calendar year and each year
21 thereafter.] first full calendar year shall be the qualified
22 business' fixed baseline tax amount. The amount added shall
23 remain part of the baseline tax amount each year thereafter
24 until such time as the qualified business ceases to conduct
25 business in the zone, upon which event such amount previously
26 added shall be deducted from the State baseline tax amount.

27 (3) [The calculation under this section may not include
28 the eligible taxes of a qualifying business moving into the
29 zone from outside this Commonwealth.] The following taxes
30 shall be excluded from the baseline tax amount calculation

1 under this section:

2 (i) Taxes on business personal property to be
3 utilized at a new facility.

4 (ii) The eligible taxes of:

5 (A) A new business.

6 (B) A qualified business moving into the zone
7 from outside this Commonwealth.

8 (C) A contractor engaged in acquisition,
9 development or construction, including infrastructure
10 and site preparation, reconstruction or renovation of
11 a facility.

12 (c) Recalculation.--The department shall not recalculate the
13 baseline of a zone designated prior to the effective date of
14 this subsection to include the hotel occupancy tax imposed under
15 Part V of Article II.

16 Section 1811-C. Certification.

17 (a) Amounts.--By the October 15 following the baseline year,
18 and each year thereafter, the department shall do all of the
19 following for each qualified business within a zone for the
20 prior calendar year:

21 (1) [Make] Subject to paragraph (1.1), make the
22 following calculation for qualified businesses which file
23 State zone reports under section 1809-C(a), separately for
24 each [zone] business:

25 (i) Subtract:

26 (A) the amount of eligible State tax refunds
27 received; from

28 (B) the amount of eligible State tax paid.

29 (ii) [Subtract] Except as set forth in subparagraph

30 (iii), subtract:

1 (A) the State tax baseline amount for the [zone]
2 business; from
3 (B) the difference under subparagraph (i).
4 (iii) If the difference under subparagraph (ii) is a
5 negative number, state the difference as zero.
6 (1.1) Make the following calculation for a qualified
7 business subject to section 1810-C(b)(1) separately for each
8 business:
9 (i) Subtract:
10 (A) the amount of State eligible tax refunds
11 received; from
12 (B) the amount of State eligible tax paid.
13 (ii) Except as set forth in subparagraph (iii),
14 subtract:
15 (A) the State tax baseline amount for the
16 business; from
17 (B) the difference under subparagraph (i).
18 (iii) If the difference under subparagraph (ii) is a
19 negative number, state the difference as zero.
20 (2) Certify to the office the [difference under
21 paragraph (1)(ii)] sum derived from adding paragraph (1) to
22 paragraph (1.1).
23 (b) Content.--
24 (1) The certification may include the following:
25 (i) Adjustment made to timely filed zone reports by
26 the department for State eligible [State] tax actually
27 paid by a qualified business in the prior calendar year.
28 (ii) [Eligible State] State eligible tax refunds
29 paid to a qualified business in the zone in a prior
30 calendar year.

1 (iii) State tax penalties paid by a qualified
2 business in the prior year under section 1809-C(c).

3 (2) The certification shall not include the following:

4 (i) Tax paid by a qualified business that did not
5 file a timely State zone report under section 1809-C(a).

6 (ii) Tax paid by a qualified business whose tax was
7 not included in the State tax baseline amount calculation
8 under section 1810-C.

9 (iii) Tax paid by a qualified business not appearing
10 on a timely filed list under section 1807-C(a).

11 (c) Submission.--The following shall apply:

12 (1) An entity collecting [an] a local eligible [local]
13 tax within the zone for each qualified business which files a
14 zone report under section 1809-C(b) shall, by October 15
15 following the baseline year and each year thereafter, submit
16 the following to the State Treasurer for transfer to the
17 fund:

18 (i) [the] The local eligible [local] tax collected
19 in the prior calendar year[;].

20 (ii) [less] Less the amount of local eligible
21 [local] tax refunds issued in the prior calendar year[;
22 and].

23 (iii) [less] Less the amount of local baseline tax
24 [for the zone.] amount.

25 (iv) If the difference under subparagraph (iii) is a
26 negative number, state the difference as zero.

27 (2) The information under this subsection shall also be
28 certified by the local taxing authority to the Department of
29 Community and Economic Development, the office and the
30 department.

1 (d) Confidential report.--No later than October 15 of the
2 baseline year and each year thereafter, the department and the
3 local taxing authority shall provide the contracting authority
4 with a report detailing the baseline tax amount for each
5 qualified business and the amount of eligible tax paid by each
6 qualified business. The report shall be confidential and shall
7 not be publicly accessible under the act of February 14, 2008
8 (P.L.6, No.3), known as the Right-to-Know Law.

9 Section 1812-C. Transfers.

10 (a) Office.--Within ten days of receiving the certification
11 from the department under section 1811-C, the office shall
12 direct the State Treasurer to transfer the amount of certified
13 eligible State zone tax from the General Fund to each fund of a
14 contracting authority.

15 (b) State Treasurer.--Within ten days of receiving direction
16 under subsection (a), the State Treasurer shall pay into the
17 fund the amount directed under subsection (a) until bonds issued
18 to finance the acquisition, development, construction, including
19 related infrastructure and site preparation, reconstruction or
20 renovation of a facility or other eligible project in the zone,
21 are retired.

22 (c) Notification.--The following shall apply:

23 (1) If the transfers under subsection (a) and section
24 1811-C(c) are insufficient to make payments on the bonds
25 issued under section 1813-C(a)(1) for the calendar year when
26 the transfers are made, the contracting authority shall
27 notify the Department of Community and Economic Development,
28 the office and the department of the amount of the deficiency
29 and may request the additional money necessary to make
30 payments on the bonds.

1 (2) The notification under paragraph (1) must be
2 accompanied by a detailed account of the contracting
3 authority's expenditures and the calculation which resulted
4 in the request for additional money. The Department of
5 Community and Economic Development, the office or the
6 department may request additional information from the
7 contracting authority and shall jointly verify the proper
8 amount of money necessary to make the payments on the bonds.

9 (3) Notwithstanding 53 Pa.C.S. § 5607(e) (relating to
10 purposes and powers), within 90 days of the date of the
11 notification request, the office shall direct the State
12 Treasurer to establish a restricted account within the
13 General Fund. The office shall direct the State Treasurer to
14 transfer the amount verified under paragraph (2) from the
15 General Fund to the restricted account for the use of the
16 contracting authority to make payments on the bonds issued
17 under section 1813-C(a)(1).

18 (4) Money transferred under paragraph (3):

19 (i) shall be limited to 50% of the State tax
20 baseline amount for the calendar year prior to the date
21 the amount is verified under paragraph (2), not to exceed
22 [\$10,000,000] \$7,500,000; and

23 (ii) must occur in the first seven calendar years
24 following the baseline year.

25 (4.1) Under extraordinary circumstances, a contracting
26 authority may request money in excess of the limitations in
27 paragraph (4)(i). The Department of Community and Economic
28 Development, the office and the department shall determine
29 whether the circumstances merit additional money and the
30 amount to be transferred. The money shall be transferred

1 under the procedure under this section.

2 (5) Money transferred under paragraph (3) shall be
3 repaid to the General Fund by the contracting authority. If
4 money transferred under paragraph (3) is not repaid to the
5 General Fund by the contracting authority [by the date of the
6 final payment on the bonds originally issued under section
7 1813-C(a) (1), the city or county which established] within 12
8 calendar years following the baseline year, the city,
9 municipality or home rule county which established or
10 designated the contracting authority shall pay the money not
11 repaid to the General Fund plus an additional penalty of 10%
12 of the amount outstanding on the date of the final payment on
13 the bonds originally issued under section 1813-C(a) (1).

14 Section 1813-C. Restrictions.

15 (a) Utilization.--[If the use was approved in an application
16 filed under section 1804-C, money] Money transferred under
17 section 1812-C may only be utilized for the following:

18 (1) Payment of debt service on bonds issued or
19 refinanced for the acquisition, development, construction,
20 including related infrastructure and site preparation,
21 reconstruction [or], renovation or refinancing of a facility
22 in the zone and normal and customary fees for professional
23 services associated with the issuance or refinance of the
24 bonds.

25 (2) [Construction] Acquisition, development,
26 construction, including related infrastructure and site
27 preparation, reconstruction [or], renovation or refinancing
28 of all or a part of a facility.

29 (3) Replenishment of amounts in debt service reserve
30 funds established to pay debt service on bonds.

1 (4) Employment of an independent auditing firm to
2 perform the duties under section 1807-C(c).

3 (5) Improvement or development of all or part of a zone.

4 (6) Improvement projects, including fixtures and
5 equipment for a facility owned, in whole or in part, by a
6 public authority.

7 (7) Payment or reimbursement of reasonable
8 administrative, auditing and compliance services required by
9 this article. Reasonable administrative costs may not exceed
10 5% of the money transferred under section 1812-C. For
11 purposes of this paragraph, professional services shall not
12 be considered administrative costs.

13 (b) Prohibition.--Money transferred under section 1812-C may
14 not be utilized for maintenance or repair of a facility.

15 (c) Excess money.--

16 (1) If the amount of money transferred to the fund under
17 sections 1811-C(c) and 1812-C in any one calendar year
18 exceeds the money utilized under this section in that
19 calendar year, the contracting authority shall submit by
20 [January] April 15 following the end of the calendar year the
21 excess money to the State Treasurer for deposit into the
22 General Fund.

23 (2) At the time of submission to the State Treasurer,
24 the contracting authority shall submit to the State
25 Treasurer, the office and the department a detailed
26 accounting of the calculation resulting in the excess money.

27 (3) The excess money shall be credited to the
28 contracting authority and applied to the amount required to
29 be repaid under section 1812-C(c)(5) until there is full
30 repayment.

1 (d) Matching funds.--

2 (1) The amount of money transferred from the fund
3 utilized for the acquisition, development, construction,
4 including related site preparation and infrastructure,
5 reconstruction or renovation of facilities, or normal and
6 customary fees for professional services shall be matched by
7 private, Federal or local money at a ratio of five fund
8 dollars to one private, Federal or local dollar. The
9 contracting authority shall verify the private, Federal or
10 local match for a project at the time of the bond and report
11 proof of the match to the agencies. All of the following
12 shall be deemed private money:

13 (i) Equity.

14 (ii) Private developer debt and financing.

15 (iii) Soft costs associated with land development.

16 (iv) Costs of professional services associated with
17 development.

18 (v) Costs associated with improvements of the
19 parcel.

20 (vi) Costs of land acquisition and real estate
21 transactions.

22 (1.1) Private, Federal or local dollars invested in any
23 single year or multiple years may be amortized over the term
24 of the private or public financing provided to the project in
25 order to meet the matching fund ratio of five fund dollars to
26 one private, Federal or local dollar invested in the project.

27 (2) By April 1 following the baseline year and for each
28 year thereafter, the contracting authority shall file an
29 annual report with the Department of Community and Economic
30 Development, the office and the department that contains a

1 detailed account of the fund money expenditures and the
2 private, Federal or local money expenditures and a
3 calculation of the ratio in paragraph (1) for the prior
4 calendar year. [The agencies shall determine whether
5 sufficient private money was utilized.]

6 (3) If it is determined that insufficient private,
7 Federal or local money was utilized under paragraph (1), the
8 amount of fund money utilized under paragraph (1) in the
9 prior calendar year shall be deducted from the next transfer
10 of the fund.

11 Section 1814-C. Transfer of property.

12 (a) Property.--[Portions of a zone where a facility has not
13 been constructed, reconstructed or renovated using money under
14 this article may be transferred out of the zone. Additional
15 acreage, not to exceed the acreage transferred out of the zone,
16 may be added to the zone.] Parcels in a zone where a facility
17 has not been constructed, reconstructed or renovated using money
18 under this article may be transferred out of the zone, if the
19 contracting authority provides a notarized certification,
20 confirmed in the annual audit required under section 1807-C(c),
21 that no fund dollars were used on the property. Additional
22 acreage, not to exceed the acreage transferred out of the zone,
23 may be simultaneously added to the zone.

24 (a.1) Public meeting.--Prior to requesting approval, the
25 contracting authority shall hold a public meeting to consider
26 the proposed transfer. At the meeting, any interested party may
27 attend and offer comment on the proposal change.

28 (a.2) Infeasibility.--

29 (1) If no activity in furtherance of development has
30 taken place on the parcel within eight years of the enactment

1 of this section or designation of the zone, whichever occurs
2 later, the contracting authority may conduct a public hearing
3 on the feasibility of the parcel to continue with the
4 designation pursuant to a request from the city or
5 municipality where the parcel sits. The hearing shall be held
6 and notice provided to the owner of the parcel in accordance
7 with section 908 of the act of July 31, 1968 (P.L.805,
8 No.247), known as the Pennsylvania Municipalities Planning
9 Code. For purposes of this section, activity shall include,
10 but not be limited to, construction, building, renovation,
11 reconstruction, site preparation and site development.

12 (2) If the contracting authority determines that the
13 project is no longer feasible, the contracting authority
14 shall issue a written opinion within 45 days of the hearing
15 setting forth the reasons supporting the determination and
16 verifying that no activity has taken place. The decision may
17 be appealed in accordance with section 1001-A the
18 Pennsylvania Municipalities Planning Code.

19 (b) Approval.--A transfer under [subsection (a)] subsections
20 (a) and (a.2) must be approved by the Department of Community
21 and Economic Development in consultation with the office and the
22 department.

23 Section 1816-C. Commonwealth pledges.

24 (a) Pledge.--If and to the extent the contracting authority
25 pledges amounts required to be transferred to its fund under
26 section 1812-C for payment of bonds [issued by the contracting
27 authority, until all bonds secured by the pledge of the
28 contracting authority, together with interest on the bonds, are
29 fully paid or provided for,] until all of the bonds, together
30 with interest, are fully paid or provided for, the Commonwealth

1 pledges to and agrees with any person, firm, corporation or
2 government agency, in this Commonwealth or elsewhere, and
3 pledges to and agrees with any Federal agency subscribing to or
4 acquiring the bonds [of the contracting authority] that the
5 Commonwealth itself will not nor will it authorize any
6 government entity to do any of the following:

7 (1) Abolish or reduce the size of the zone, or transfer
8 zone designation from a parcel contrary to section 1814-C.

9 (2) Amend or repeal section 1810-C [or], 1811-C, 1812-C,
10 1813-C, 1814-C, 1815-C or this section to the detriment of
11 the issuer of any bonds.

12 (3) Limit or alter the rights vested in the contracting
13 authority in a manner inconsistent with the obligations of
14 the contracting authority with respect to the bonds issued by
15 the contracting authority.

16 (4) Impair revenue to be paid under this article to the
17 contracting authority necessary to pay debt service on bonds.

18 (b) Limitation.--Nothing in this section shall limit the
19 authority of the Commonwealth or a political subdivision
20 government entity to change the rate, base or subject of a
21 specific tax or to repeal or enact any tax.

22 Section 1818-C. Guidelines.

23 [By October 31, 2013, the] The Department of Community and
24 Economic Development, the office and the department shall
25 develop, update and publish guidelines necessary to implement
26 this article.

27 Section 38. The act is amended by adding a section to read:
28 Section 1819-C. Review.

29 (a) Department of Community and Economic Development.--By
30 December 31, 2021, the Department of Community and Economic

1 Development shall, in cooperation with the office and the
2 department, complete a review and analysis of all active zones.

3 The review shall include an analysis of:

4 (1) The number of new jobs created.

5 (2) The cost to and impact of the zones on the
6 Commonwealth and the revenue of the Commonwealth.

7 (3) Economic development to the city, or municipality in
8 a zone and to the Commonwealth.

9 (4) Any negative impact on adjacent municipalities or
10 the Commonwealth.

11 (b) Other review.--By June 30, 2021, the Independent Fiscal
12 Office shall complete a review and analysis of all zones. The
13 review shall include an analysis of the factors under subsection
14 (a).

15 (c) Posting.--Reviews under subsections (a) and (b) shall be
16 posted on the Department of Community and Economic Development's
17 publicly accessible Internet website as well as the Independent
18 Fiscal Office's publicly accessible Internet website.

19 Section 38.1. The act is amended by adding an article to
20 read:

21 ARTICLE XVIII-G

22 MANUFACTURING AND INVESTMENT

23 TAX CREDIT

24 PART I

25 MANUFACTURING TAX CREDIT

26 Section 1801-G. Definitions.

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

30 "Annual taxable payroll." The total amount of wages paid by

1 an employer for the base year or year one, as applicable, from
2 which personal income tax under Article III is withheld.

3 "Base year." The four calendar quarters preceding the start
4 date.

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

7 "Manufacturing tax credit." A tax credit for which the
8 department has issued a certificate under this part.

9 "New job." A full-time job created in year one which has an
10 average wage at least equal to the county average wage where the
11 job is located and which includes employer-provided health
12 benefits.

13 "Pass-through entity."

14 (1) A partnership as defined in section 301(n.0).

15 (2) A Pennsylvania S Corporation as defined in section
16 301(n.1).

17 (3) An unincorporated entity subject to section 307.21.

18 "Qualified tax liability." A taxpayer's tax liability under
19 Article III, IV, VI, VII, VIII, IX, XI or XV.

20 "Start date." The first day of the calendar quarter in which
21 an application is submitted to the department unless the
22 applicant requests and the department agrees to a later start
23 date.

24 "Taxpayer." An entity that is engaged in the mechanical,
25 physical or chemical transformation of materials, substances or
26 components into new products that are creations of new items of
27 tangible personal property for sale.

28 "Wages." Remuneration paid by an employer to an individual
29 with respect to the individual's employment.

30 "Year one." The four calendar quarters immediately following

1 the start date.

2 Section 1802-G. Eligibility.

3 In order to be eligible to receive a manufacturing tax
4 credit, a taxpayer must demonstrate to the department the
5 following:

6 (1) The ability of the taxpayer to create an increase in
7 the taxpayer's annual taxable payroll in year one by at least
8 \$1,000,000 above the amount in the base year solely through
9 the creation of new jobs and to maintain the increase for a
10 period of at least five years from the start date.

11 (2) The ability to maintain new jobs for a period of at
12 least five years from the start date.

13 (3) The intent to maintain existing operations in this
14 Commonwealth for a period of at least five years from the
15 start date.

16 Section 1803-G. Procedure.

17 (a) Application.--A taxpayer applying to claim a
18 manufacturing tax credit must complete and submit to the
19 department a manufacturing tax credit application on a form and
20 in a manner as determined by the department.

21 (b) Creation of new jobs.--In order to receive a
22 manufacturing tax credit, the taxpayer must agree to create in
23 year one new jobs that increase the taxpayer's annual taxable
24 payroll above the base year annual taxable payroll by
25 \$1,000,000. The taxpayer must agree to retain the new jobs and
26 increase in payroll for at least five years from the start date.

27 (c) Approval.--If the department approves the taxpayer's
28 application, the department and the taxpayer shall execute a
29 commitment letter containing the following:

30 (1) A description of the new jobs created.

1 (2) The number of new jobs to be created.

2 (3) The amount of private capital investment in the
3 creation of new jobs.

4 (4) The increase in year one of the annual taxable
5 payroll for new jobs above the base year amount of annual
6 taxable payroll.

7 (5) The maximum manufacturing tax credit amount the
8 taxpayer may claim.

9 (6) A signed statement that the taxpayer intends to
10 maintain existing operations in this Commonwealth for at
11 least five years from the start date.

12 (7) Any other information as the department deems
13 appropriate.

14 (d) Commitment letter.--After a commitment letter has been
15 signed by both the Commonwealth and the taxpayer, the taxpayer
16 must increase the annual taxable payroll in year one by at least
17 \$1,000,000 above the base year amount from the creation of new
18 jobs up to the amount specified in the commitment letter. If the
19 taxpayer does not increase the annual taxable payroll as
20 provided under this subsection, the commitment letter shall be
21 revoked and deemed to be null and void.

22 Section 1804-G. Manufacturing tax credit.

23 (a) Maximum amount.--The department may award a
24 manufacturing tax credit of up to 5% of the taxpayer's increase
25 in annual taxable payroll, if the annual taxable payroll
26 increases in year one by at least \$1,000,000 above the base year
27 amount from the creation of new jobs up to the amount specified
28 in the commitment letter.

29 (b) Determination.--The annual taxable payroll in year one
30 for a new job shall be the sum of the amount of annual taxable

1 payroll in year one for the new jobs created above the taxable
2 payroll in the base year.

3 (c) Certificate.--After verification by the department that
4 the taxpayer has increased the annual taxable payroll in year
5 one by at least \$1,000,000 above the base year amount from the
6 creation of new jobs up to the amount specified and any other
7 conditions required by the department and specified in the
8 commitment letter, the taxpayer shall receive a manufacturing
9 tax credit certificate and filing information.

10 (d) Applicable taxes.--A taxpayer may apply the
11 manufacturing tax credit to 100% of the taxpayer's qualified tax
12 liability.

13 (e) Term.--A taxpayer may claim the manufacturing tax credit
14 for a period determined by the department, not to exceed the
15 earlier of:

16 (1) five years from the date the taxpayer receives the
17 manufacturing tax credit certificate; or

18 (2) six years from the start date.

19 (f) Availability.--A manufacturing tax credit shall be made
20 available by the department on a first-come, first-served basis.

21 (g) Limitation.--For each fiscal year beginning after June
22 30, 2017, \$4,000,000 in manufacturing tax credits shall be made
23 available to the department and may be awarded by the department
24 in accordance with this part. In any fiscal year, the department
25 may reissue, assign or award prior fiscal year manufacturing tax
26 credits which have been recaptured under section 1808-G(a) or
27 (b) and may award prior fiscal year manufacturing tax credits
28 not previously issued.

29 Section 1805-G. Limitations.

30 The following apply to manufacturing tax credits:

1 (1) If the taxpayer cannot use the entire amount of the
2 manufacturing tax credit for the taxable year in which the
3 manufacturing tax credit is first approved, the excess may be
4 carried over to succeeding taxable years and used as a credit
5 against the qualified tax liability of the taxpayer for the
6 taxable years. Each time the manufacturing tax credit is
7 carried over to a succeeding taxable year, the manufacturing
8 tax credit shall be reduced by the amount of the
9 manufacturing tax credit used as a credit during the
10 immediately preceding taxable year. The manufacturing tax
11 credit may be carried over and applied to succeeding taxable
12 years for no more than three taxable years following the
13 first taxable year for which the taxpayer was entitled to
14 claim the credit.

15 (2) A manufacturing tax credit approved by the
16 department in a taxable year first shall be applied against
17 the taxpayer's qualified tax liability for the current
18 taxable year as of the date on which the credit was approved
19 before the manufacturing tax credit can be applied against
20 any tax liability under paragraph (1).

21 (3) A taxpayer shall not be entitled to carry back or
22 obtain a refund of all or any portion of an unused
23 manufacturing tax credit granted to the taxpayer under this
24 part.

25 Section 1806-G. Sale or assignment.

26 (a) Application.--A taxpayer, upon application to and
27 approval by the department, may sell or assign, in whole or in
28 part, a manufacturing tax credit granted to the taxpayer. The
29 following shall apply:

30 (1) The department and the Department of Revenue shall

1 jointly issue guidelines for the approval of applications
2 under this paragraph.

3 (2) Before an application is approved, the Department of
4 Revenue must make a finding that the applicant has filed all
5 required State tax reports and returns for all applicable
6 taxable years and paid any balance of State tax due as
7 determined at settlement, assessment or determination by the
8 Department of Revenue.

9 (3) Notwithstanding any other provision of law, the
10 Department of Revenue must settle, assess or determine the
11 tax of an applicant under this paragraph within 90 days of
12 the filing of each required final return or report in
13 accordance with section 806.1(a)(5) of the act of April 9,
14 1929 (P.L.343, No.176), known as The Fiscal Code.

15 (b) Use by purchaser or assignee.--The purchaser or assignee
16 of all or a portion of a manufacturing tax credit under
17 subsection (a) must immediately claim the credit in the taxable
18 year in which the purchase or assignment is made.

19 (1) The amount of the manufacturing tax credit that a
20 purchaser or assignee may use against any one qualified tax
21 liability may not exceed 50% of the qualified tax liability
22 for the taxable year.

23 (2) The purchaser or assignee may not carry forward,
24 carry back or obtain a refund of or sell or assign the
25 manufacturing tax credit.

26 (3) The purchaser or assignee shall notify the
27 Department of Revenue of the seller or assignor of the
28 manufacturing tax credit in compliance with procedures
29 specified by the Department of Revenue.

30 Section 1807-G. Pass-through entity.

1 (a) General rule.--If a pass-through entity has any unused
2 tax credits under section 1805-G, the entity may elect in
3 writing, according to procedures established by the Department
4 of Revenue, to transfer all or a portion of the credit to
5 shareholders, members or partners in proportion or the share of
6 the entity's distributive income to which the shareholder,
7 member or partner is entitled.

8 (b) Limitation.--A pass-through entity and a shareholder,
9 member or partner of a pass-through entity may not claim the
10 credit under subsection (a) for the same new job.

11 (c) Application.--A shareholder, member or partner of a
12 pass-through entity to whom a credit is transferred under
13 subsection (a) shall immediately claim the credit in the taxable
14 year in which the transfer is made. The shareholder, member or
15 partner may not carry forward, carry back, obtain a refund of or
16 sell or assign the credit.

17 Section 1808-G. Penalties.

18 (a) Failure to maintain operations.--A taxpayer which
19 receives a manufacturing tax credit and fails to maintain
20 existing operations related to the manufacturing tax credits in
21 this Commonwealth for a period of at least five years from the
22 start date must refund to the Commonwealth the total amount of
23 manufacturing tax credits granted. The Department of Revenue may
24 issue an assessment, including interest, additions and
25 penalties, for the total amount of each manufacturing tax credit
26 to be refunded to the Commonwealth.

27 (b) Failure to maintain jobs.--A taxpayer which receives a
28 manufacturing tax credit and fails to maintain new jobs along
29 with the increase in taxable payroll for a period of at least
30 five years from the start date must refund to the Commonwealth

1 the total amount of manufacturing tax credits granted. The
2 Department of Revenue may issue an assessment, including
3 interest, additions and penalties, for the total amount of
4 manufacturing tax credits to be refunded to the Commonwealth.

5 (c) Waiver.--The department may waive the penalties under
6 subsections (a) and (b) if it is determined that a company's
7 existing operations were not maintained or the new jobs and
8 increase to payroll were not created because of circumstances
9 beyond the company's control. Circumstances shall include
10 natural disasters, unforeseen industry trends or a loss of a
11 major supplier or market.

12 Section 1809-G. Guidelines.

13 The department shall develop and publish guidelines necessary
14 to implement this part.

15 PART II

16 RURAL JOBS AND INVESTMENT TAX CREDIT

17 Section 1821-G. Scope of part.

18 This part relates to the Rural Jobs and Investment Tax
19 Credit.

20 Section 1822-G. Definitions.

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

24 "Affiliate." An entity that directly, or indirectly through
25 one or more intermediaries, controls, is controlled by, or is
26 under common control with another entity. For the purposes of
27 this part, an entity is "controlled by" another entity if the
28 controlling person holds, directly or indirectly, the majority
29 voting or ownership interest in the controlled entity or has
30 control over the day-to-day operations of the controlled entity

1 by contract or by law.

2 "Business firm." An entity authorized to do business in this
3 Commonwealth and subject to taxes imposed under Article VII,
4 VIII, IX or XV, the tax under Article XVI of the act of May 17,
5 1921 (P.L.682, No.284), known as The Insurance Company Law of
6 1921, or amounts imposed under section 212 of the act of May 17,
7 1921 (P.L.789, No.285), known as The Insurance Department Act of
8 1921.

9 "Closing date." The date on which a rural growth fund has
10 collected all of the amounts specified by section 1825-G.

11 "Credit-eligible capital contribution." An investment of
12 cash by a business firm in a rural growth fund that equals the
13 amount specified on a tax credit certificate issued by the
14 department under section 1829-G. The investment shall purchase
15 an equity interest in the rural growth fund or purchase, at par
16 value or premium, a debt instrument that has a maturity date at
17 least five years from the closing date.

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

20 "Investment authority." The amount stated on the notice
21 issued under section 1824-G approving the rural growth fund.

22 "Principal business operations." The place or places where
23 at least 60% of a rural business' employees work or where
24 employees that are paid at least 60% of the business' payroll
25 work. An out-of-State business that has agreed to relocate
26 employees using the proceeds of a rural growth investment to
27 establish principal business operations in a rural area in this
28 Commonwealth shall be deemed to have the principal business
29 operations in this new location if the business satisfies this
30 definition within 180 days after receiving the rural growth

1 investment, unless the department agrees to a later date.

2 "Qualified tax liability." The liability for taxes imposed
3 under Article VII, VIII, IX or XV, the tax under Article XVI of
4 the act of May 17, 1921 (P.L.682, No.284), known as The
5 Insurance Company Law of 1921, or amounts imposed under section
6 212 of the act of May 17, 1921 (P.L.789, No.285), known as The
7 Insurance Department Act of 1921.

8 "Rural area." Either of the following:

9 (1) An area of the Commonwealth that is not in:

10 (i) A city with a population of more than 50,000
11 according to the latest decennial census of the United
12 States.

13 (ii) An urbanized area contiguous and adjacent to a
14 city that has a population of more than 50,000
15 inhabitants.

16 (2) An area determined to be rural in character by the
17 under-secretary of agriculture for rural development within
18 the United States Department of Agriculture.

19 "Rural business." A business that, at the time of the
20 initial investment in the business by a rural growth fund, meets
21 the following conditions:

22 (1) Has fewer than 250 employees and not more than
23 \$15,000,000 in net income as determined by generally accepted
24 accounting principles for the preceding calendar year.

25 (2) Has principal business operations in one or more
26 rural areas in this Commonwealth.

27 (3) Is engaged in industries related to manufacturing,
28 plant sciences, services or technology or, if not engaged in
29 those industries, the department makes a determination that
30 the investment will be highly beneficial to the economic

1 growth of this Commonwealth.

2 "Rural growth fund." An entity approved by the department
3 under section 1824-G.

4 "Rural growth investment." A capital or equity investment in
5 a rural business or any loan to a rural business with a stated
6 maturity at least one year after the date of issuance.

7 "Tax credit." The Rural Jobs and Investment Tax Credit
8 provided under this part.

9 Section 1823-G. Rural Jobs and Investment Tax Credit Program.

10 The Rural Jobs and Investment Tax Credit Program is
11 established in the department to attract capital to:

12 (1) Stimulate business development in rural areas.

13 (2) Retain and attract new rural business and industry
14 to the Commonwealth.

15 (3) Create good-paying rural jobs.

16 (4) Stimulate growth in rural businesses that are
17 prepared to make impactful economic development investments.

18 Section 1824-G. Rural growth funds.

19 (a) Application.--Beginning on the effective date of this
20 section, an application to qualify as a rural growth fund must
21 be submitted on a form and in a manner as required by the
22 department.

23 (b) Information.--An application to qualify as a rural
24 growth fund shall include all of the following:

25 (1) The total investment authority sought by the
26 applicant under the business plan.

27 (2) Documents and other evidence sufficient to prove, to
28 the satisfaction of the department, that the applicant meets
29 all of the following criteria:

30 (i) The applicant or an affiliate of the applicant

1 is licensed as a rural business investment company under
2 the Consolidated Farm and Rural Development Act (Public
3 Law 87-128, 75 Stat. 307) or as a small business
4 investment company under the Small Business Investment
5 Act of 1958 (Public Law 85-699, 72 Stat. 689).

6 (ii) Evidence that as of the date the application is
7 submitted, the applicant or affiliates of the applicant
8 have invested at least \$100,000,000 in nonpublic
9 companies located in rural areas of this Commonwealth or
10 other states.

11 (3) An estimate of the number of jobs that will be
12 created or retained in this Commonwealth as a result of the
13 applicant's rural growth investments.

14 (4) A business plan that includes a revenue impact
15 assessment projecting State and local tax revenue to be
16 generated by the applicant's proposed rural growth
17 investments prepared by a nationally recognized third-party
18 independent economic forecasting firm using a dynamic
19 economic forecasting model that analyzes the applicant's
20 business plan over the 10 years following the date the
21 application is submitted to the department.

22 (5) A signed affidavit from each investor stating the
23 amount of credit-eligible capital contributions each business
24 firm commits to make.

25 (6) A nonrefundable application fee of \$500.

26 (c) Review of applications.--The department shall review
27 applications received from rural growth funds under this
28 section. Subject to the limitation in subsection (f), the
29 department shall make allocations of investment authority for
30 approved applications in the order in which the applications are

1 received. Applications received on the same day shall be deemed
2 to have been received simultaneously. If requests for investment
3 authority on approved applications exceed the limitation in
4 subsection (f), the department shall reduce the investment
5 authority and the credit-eligible capital contributions
6 proportionally based upon the amount of investment authority
7 sought in the application for each approved application as
8 necessary to not exceed the limitation in subsection (f).

9 (d) Notice of approval or disapproval.--

10 (1) Within 60 days after receipt of an application, the
11 department shall notify the applicant of its approval or
12 disapproval as a rural growth fund under this part.

13 (2) A notice of approval shall specify the amount of the
14 applicant's investment authority as determined by the
15 department after reviewing the information submitted in
16 accordance with subsection (b) and the amount of credit-
17 eligible contribution authority allocated to each business
18 firm that submitted an affidavit in the application.

19 (3) If the application is disapproved, the notice of
20 disapproval shall include the reasons for disapproval.

21 (4) An applicant may resubmit the application within 30
22 days after receipt of a notice of disapproval.

23 (e) Request for determination.--A rural growth fund, before
24 making a rural growth investment, may request from the
25 department a written opinion as to whether the business in which
26 the growth fund proposed to invest is a rural business. The
27 department shall notify the rural growth fund of the
28 determination within 15 days after receipt of the request. If
29 the department fails to notify a rural growth fund of the
30 determination within 15 days, the business in which the growth

1 fund proposes to invest shall be considered a rural business.

2 (f) Limitation.--The department may not approve more than
3 \$100,000,000 in investment authority under this part.

4 Section 1825-G. Requirements.

5 (a) Collections.--Upon receiving approval under section
6 1824-G, a rural growth fund must do all of the following within
7 60 days:

8 (1) Collect the credit-eligible capital contributions
9 from each business firm issued a tax credit certificate under
10 section 1829-G.

11 (2) Collect one or more investments of cash that, when
12 added to the contributions collected under paragraph (1),
13 equal the fund's investment authority. At least 10% of the
14 fund's investment authority shall be comprised of equity
15 investments contributed by affiliates of the rural growth
16 fund, including employees, officers and directors of the
17 affiliates.

18 (b) Documentation.--Within 65 days of approval under section
19 1824-G, a rural growth fund must provide to the department
20 documentation sufficient to prove that the amounts specified in
21 subsection (a) have been collected.

22 Section 1826-G. Rural growth fund failure to comply.

23 (a) Revocation.--If a rural growth fund fails to meet the
24 requirements of section 1825-G, the fund's approval shall be
25 revoked and the corresponding investment authority and credit-
26 eligible capital contributions may not be included in
27 determining the limits on total investment authority and credit-
28 eligible capital contributions prescribed in sections 1824-G(f)
29 and 1828-G(c), respectively.

30 (b) Reallocation.--Any investment authority and credit-

1 eligible capital contributions related to a rural growth fund
2 whose approval has been revoked under subsection (a) shall be
3 reallocated by awarding the investment authority related to a
4 revocation on a pro rata basis to each rural growth fund that
5 was awarded less than the requested investment authority under
6 section 1824-G.

7 (c) Discretion.--A rural growth fund may allocate any
8 investment authority reallocated to it under subsection (b) to
9 its investor business firms at its discretion.

10 (d) Unallocated investment authority.--Subsequent to the
11 reallocation in subsection (b), any remaining investment
12 authority may be awarded by the department to new applicants.
13 Section 1827-G. Reporting obligations.

14 (a) Initial report.--Each rural growth fund shall submit a
15 report to the department on or before the fifth business day
16 after the second anniversary of the closing date. The report
17 shall provide documentation as to the rural growth fund's rural
18 growth investments and include the following information:

19 (1) A bank statement evidencing each rural growth
20 investment.

21 (2) The name, location and industry of each business
22 receiving a rural growth investment, including either the
23 determination letter issued by the department under section
24 1824-G(e) or other evidence that the business qualified as a
25 rural business at the time the investment was made.

26 (3) The number of jobs created or retained as a result
27 of the fund's rural growth investments as of the last day of
28 the preceding calendar year.

29 (4) Any other information required by the department.

30 (b) Annual report.--No later than March 1 of each year

1 following the year in which the report required under subsection
2 (a) is due, the rural growth fund shall submit an annual report
3 to the department that includes the following information:

4 (1) The number of jobs created or retained as a result
5 of the fund's rural growth investments as of the last day of
6 the preceding calendar year.

7 (2) The average annual salary of the jobs reported in
8 paragraph (1).

9 (3) Any other information required by the department.

10 Section 1828-G. Business firms.

11 (a) General rule.--To qualify for a tax credit, credit-
12 eligible capital contributions made by a business firm to a
13 rural growth fund must be used by the rural growth fund for
14 rural growth investments in a rural business under this part.

15 (b) Submission.--In connection with the documentation
16 submitted under section 1825-G(b), a rural growth fund shall
17 submit, on behalf of its business firm investors, on a form and
18 in a manner required by the department, a description of credit-
19 eligible capital contributions for approval by the department.
20 The submission shall include for each credit-eligible capital
21 contribution:

22 (1) The amount of the credit-eligible capital
23 contribution.

24 (2) The name of the rural growth fund to which the
25 credit-eligible capital contribution was made.

26 (3) The closing date.

27 (4) Any other information required by the department.

28 (c) Limitation.--The department may not approve more than
29 \$4,000,000 in credit-eligible capital contributions under this
30 part.

1 Section 1829-G. Tax credit certificates.

2 (a) Application.--

3 (1) A business firm may apply to the department for a
4 tax credit certificate under this section for the tax credits
5 that are earned and vested as a result of the business firm's
6 credit-eligible capital contribution.

7 (2) The application shall be on a form required by the
8 department and shall include the amount of the business
9 firm's credit-eligible capital contribution approved under
10 section 1828-G(b).

11 (3) The application shall be filed no later than
12 February 1 for credit-eligible capital contributions made in
13 the preceding calendar year.

14 (b) Review, recommendation and approval.--

15 (1) The department shall review the credit-eligible
16 capital contributions, verify that the credit-eligible
17 capital contributions were made to an approved rural growth
18 fund with adequate investment authority and approve or
19 disapprove the application within 30 days of receipt of the
20 application for review.

21 (2) If the department has approved the application, it
22 shall award the business firm a tax credit certificate by
23 April 1.

24 (2.1) A tax credit awarded under this section shall not
25 exceed 90% of the credit-eligible capital contributions made
26 by a business firm.

27 (3) In awarding tax credit certificates under this part,
28 the department:

29 (i) Beginning with fiscal year 2017-2018, may not
30 award tax credit certificates that would result in the

1 utilization of more than \$1,000,000 in tax credits in any
2 fiscal year, except for tax credits carried forward.

3 (ii) May not award more than \$4,000,000 in tax
4 credit certificates, in the aggregate, under this part.

5 Section 1830-G. Claiming the tax credit.

6 (a) Presentation.--Beginning July 1, 2017, upon presenting a
7 tax credit certificate to the Department of Revenue, a business
8 firm may claim a tax credit of up to 25% of the amount awarded
9 under section 1829-G for each of the taxable years that includes
10 the third through sixth anniversaries of the closing date,
11 exclusive of any tax credit amounts carried over under section
12 1831-G(b).

13 (b) Allowance.--The Department of Revenue shall allow a tax
14 credit against any tax due under Article VII, VIII, IX or XV,
15 the tax under Article XVI of the act of May 17, 1921 (P.L.682,
16 No.284), known as The Insurance Company Law of 1921, amounts
17 imposed under section 212 of the act of May 17, 1921 (P.L.789,
18 No.285), known as The Insurance Department Act of 1921, or any
19 tax substituted in lieu of one of the taxes under this
20 subsection.

21 Section 1831-G. Restrictions on tax credit utilization.

22 (a) Limitation.--A tax credit to be applied in any one year
23 may not exceed the qualified tax liability of the business firm
24 or affiliate to which a tax credit was sold or assigned for that
25 taxable year.

26 (b) Carryover.--A tax credit not used in the period the
27 credit is first eligible for use under subsection (a) may be
28 carried over for the next five succeeding calendar years until
29 the full tax credit has been allowed.

30 Section 1832-G. Prohibitions.

1 (a) Sale or assignment.--A business firm may not sell or
2 assign, in whole or in part, a tax credit awarded under this
3 part other than to an affiliate having a qualified tax
4 liability.

5 (b) Carryback or refund.--A business firm may not carry back
6 or obtain a refund of an unused tax credit.

7 (c) Business activities.--Neither a rural growth fund nor
8 any business firm that invests in the rural growth fund shall be
9 an affiliate of or have a pecuniary interest in a rural business
10 that receives a rural growth investment from the rural growth
11 fund prior to the fund's initial rural growth investment in the
12 rural business.

13 Section 1833-G. Revocation of tax credit certificates.

14 (a) Revocation.--The department shall revoke a tax credit
15 certificate awarded under section 1829-G if any of the following
16 occur with respect to a rural growth fund before the fund exits
17 the program under section 1834-G:

18 (1) The rural growth fund in which the credit-eligible
19 capital contribution was made does not invest all of its
20 investment authority in rural growth investments in this
21 Commonwealth within two years of the closing date with at
22 least 25% of its investment authority initially invested in
23 rural businesses engaged in manufacturing.

24 (2) The rural growth fund, after satisfying the
25 conditions of paragraph (1), fails to maintain rural growth
26 investments equal to 100% of its investment authority until
27 the sixth anniversary of the closing date. For the purposes
28 of this paragraph, an investment is "maintained" even if the
29 investment is sold or repaid so long as the rural growth fund
30 reinvests an amount equal to the capital returned or

1 recovered by the fund from the original investment, exclusive
2 of any profits realized, in other rural growth investments in
3 this Commonwealth within 12 months of the receipt of the
4 capital. Amounts received periodically by a rural growth fund
5 shall be treated as continually invested in rural growth
6 investments if the amounts are reinvested in one or more
7 rural growth investments by the end of the following calendar
8 year. A rural growth fund is not required to reinvest capital
9 returned from rural growth investments after the fifth
10 anniversary of the closing date and the rural growth
11 investments shall be considered held continuously by the
12 rural growth fund through the sixth anniversary of the
13 closing date.

14 (3) The rural growth fund, before exiting the program in
15 accordance with section 1834-G, makes a distribution or
16 payment that results in the rural growth fund having less
17 than 100% of its investment authority invested in rural
18 growth investments in this Commonwealth or available for
19 investment in rural growth investments and held in cash and
20 other marketable securities.

21 (4) The rural growth fund invests more than 20% of its
22 investment authority in the same rural business, including
23 amounts invested in affiliates of the rural business.

24 (5) The rural growth fund makes a rural growth
25 investment in a rural business that directly or indirectly
26 through an affiliate owns, has the right to acquire an
27 ownership interest, makes a loan to, or makes an investment
28 in the rural growth fund, an affiliate of the rural growth
29 fund, or an investor in the rural growth fund. This paragraph
30 does not apply to investments in publicly traded securities

1 by a rural business or an owner or affiliate of a rural
2 business. For purposes of this paragraph, a rural growth fund
3 shall not be considered an affiliate of a rural business
4 solely as a result of its rural growth investment.

5 (b) Notification.--Before revoking one or more tax credit
6 certificates under this section, the department shall notify the
7 rural growth fund of the reasons for the pending revocation. The
8 rural growth fund shall have 90 days from the date the notice
9 was made to correct any violation outlined in the notice to the
10 satisfaction of the department and avoid revocation of a tax
11 credit certificate.

12 (c) Reallocation.--If a tax credit certificate is revoked
13 under this section, the associated investment authority and
14 credit-eligible capital contributions may not count toward the
15 limit on total investment authority and credit-eligible capital
16 contributions allowed under this part. The department shall
17 first reallocate investment authority on a pro rata basis to
18 each rural growth fund that was allocated less than the
19 requested investment authority under section 1824-G. The
20 department may then allocate any remaining investment authority
21 to new applicants.

22 Section 1834-G. Exit.

23 (a) Application for exit.--On or after the sixth anniversary
24 of the closing date, a rural growth fund may apply to the
25 department to exit the Rural Jobs and Investment Tax Credit
26 Program and no longer be subject to regulation under this part.
27 The department shall respond to the application within 30 days
28 after receipt. In evaluating the application, the fact that no
29 tax credit certificates have been revoked and that the rural
30 growth fund has not received a notice of revocation that has not

1 been cured under section 1833-G(b) shall be sufficient evidence
2 to show that the rural growth fund is eligible for exit. The
3 department may not deny an application submitted under this
4 subsection without reasonable cause. If the application is
5 denied, the department shall issue a notice which shall include
6 the reasons for the denial.

7 (b) Exit.--The department may not revoke a tax credit
8 certificate after a rural growth fund exits from the Rural Jobs
9 and Investment Tax Credit Program under this section.

10 Section 1835-G. Duties of department.

11 (a) Rules and regulations.--The department may promulgate
12 rules and regulations to administer this part.

13 (b) Reports by department.--The department shall provide a
14 report listing all applications received for tax credit
15 certificates and the disposition of the applications in each
16 fiscal year to the General Assembly by October 1 of the
17 following fiscal year. The department's report shall include all
18 business firms approved for a tax credit certificate and the
19 amount of tax credit certificates approved for each business
20 firm.

21 (c) Confidentiality.--Notwithstanding any law providing for
22 the confidentiality of tax records, the information in the
23 report under subsection (b) shall be public information and all
24 report information shall be posted on the department's publicly
25 accessible Internet website.

26 Section 38.2. The definition of "neighborhood organization"
27 in section 1902-A of the act, amended May 7, 1997 (P.L.85,
28 No.7), is amended and the section is amended by adding
29 definitions to read:

30 Section 1902-A. Definitions.--The following words, terms and

1 phrases, when used in this article, shall have the meanings
2 ascribed to them in this section, except where the context
3 clearly indicates a different meaning:

4 "Affordable housing." Housing that serves median-income,
5 low-income, very low-income and extremely low-income families as
6 those terms are defined in section 3 of the United States
7 Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.)
8 based on the area median income as determined by the Federal
9 Housing Finance Agency.

10 * * *

11 "Domestic violence or veterans' housing assistance."
12 Furnishing financial assistance, labor, material and technical
13 advice to aid in the acquisition, construction, renovation or
14 rehabilitation of real property in an impoverished area that
15 will be used to provide housing for victims of domestic violence
16 or veterans.

17 * * *

18 "Neighborhood organization." Any organization performing
19 community services, offering neighborhood assistance or
20 providing job training, affordable housing, domestic violence or
21 veterans' housing assistance, education or crime prevention in
22 an impoverished area, holding a ruling from the Internal Revenue
23 Service of the United States Department of the Treasury that the
24 organization is exempt from income taxation under the provisions
25 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
26 U.S.C. § 1 et seq.) and approved by the Department of Community
27 [Affairs] and Economic Development.

28 * * *

29 Section 38.3. Section 1904-A of the act, amended July 25,
30 2007 (P.L.373, No.55) and July 2, 2012 (P.L.751, No.85), is

1 amended to read:

2 Section 1904-A. Tax Credit.--(a) Any business firm which
3 engages or contributes to a neighborhood organization which
4 engages in the activities of providing neighborhood assistance,
5 comprehensive service projects, affordable housing, domestic
6 violence or veterans' housing assistance, job training or
7 education for individuals, community services or crime
8 prevention in an impoverished area or private company which
9 makes qualified investment to rehabilitate, expand or improve
10 buildings or land located within portions of impoverished areas
11 which have been designated as enterprise zones shall receive a
12 tax credit as provided in section 1905-A if the secretary
13 annually approves the proposal of such business firm or private
14 company. The proposal shall set forth the program to be
15 conducted, the impoverished area selected, the estimated amount
16 to be invested in the program and the plans for implementing the
17 program.

18 (b) The secretary is hereby authorized to promulgate rules
19 and regulations for the approval or disapproval of such
20 proposals by business firms or private companies. The secretary
21 shall provide a report listing of all applications received and
22 their disposition in each fiscal year to the General Assembly by
23 October 1 of the following fiscal year. The secretary's report
24 shall include all taxpayers utilizing the credit and the amount
25 of credits approved, sold or assigned. Notwithstanding any law
26 providing for the confidentiality of tax records, the
27 information in the report shall be public information, and all
28 report information shall be posted on the secretary's Internet
29 website.

30 (b.1) The secretary shall take into special consideration,

1 when approving applications for neighborhood assistance tax
2 credits, applications which involve:

3 (1) multiple projects in various markets throughout this
4 Commonwealth; and

5 (2) charitable food programs.

6 (b.2) The secretary, in cooperation with the Department of
7 Agriculture, shall promulgate guidelines for the approval or
8 disapproval of applications for tax credits by business firms
9 that contribute food or money to charitable food programs.

10 (b.3) The secretary, in cooperation with the Department of
11 Military and Veterans Affairs, shall promulgate guidelines for
12 the approval or disapproval for tax credits by business firms
13 that contribute to veterans' housing assistance.

14 (c) The total amount of tax credit granted for programs
15 approved under this act shall not exceed eighteen million
16 dollars (\$18,000,000) of tax credit in any fiscal year.

17 (d) A taxpayer, upon application to and approval by the
18 Department of Community and Economic Development, may sell or
19 assign, in whole or in part, a neighborhood assistance tax
20 credit granted to the business firm under this article if no
21 claim for allowance of the credit is filed within one year from
22 the date the credit is granted by the Department of Revenue
23 under section 1905-A. The Department of Community and Economic
24 Development and the Department of Revenue shall jointly
25 promulgate guidelines for the approval of applications under
26 this subsection.

27 (e) The purchaser or assignee of a neighborhood assistance
28 tax credit under subsection (d) shall immediately claim the
29 credit in the taxable year in which the purchase or assignment
30 is made. The purchaser or assignee may not carry over, carry

1 back, obtain a refund of or sell or assign the neighborhood
2 assistance tax credit. The purchaser or assignee shall notify
3 the Department of Revenue of the seller or assignor of the
4 neighborhood assistance tax credit in compliance with procedures
5 specified by the Department of Revenue.

6 (f) The neighborhood assistance tax credit approved by the
7 Department of Community and Economic Development shall be
8 applied against the business firm's tax liability for the taxes
9 under section 1905-A for the current taxable year as of the date
10 on which the credit was approved before the neighborhood
11 assistance tax credit may be carried over, sold or assigned.

12 Section 38.4. Section 1905-A of the act, amended July 25,
13 2007 (P.L.373, No.55), is amended to read:

14 Section 1905-A. Grant of Tax Credit.--The Department of
15 Revenue shall grant a tax credit against any tax due under
16 Article III, IV, VI, VII, VIII, IX or XV of this act, or any tax
17 substituted in lieu thereof in an amount which shall not exceed
18 fifty-five per cent of the total amount contributed during the
19 taxable year by a business firm or twenty-five per cent of
20 qualified investments by a private company in programs approved
21 pursuant to section 1904-A of this act: Provided, That a tax
22 credit of up to seventy-five per cent of the total amount
23 contributed during the taxable year by a business firm or up to
24 thirty-five per cent of the amount of qualified investments by a
25 private company may be allowed for investment in programs where
26 activities fall within the scope of special program priorities
27 as defined with the approval of the Governor in regulations
28 promulgated by the secretary, and Provided further, That a tax
29 credit of up to seventy-five per cent of the total amount
30 contributed during the taxable year by a business firm in

1 comprehensive service projects with five-year commitments and up
2 to eighty per cent of the total amount contributed during the
3 taxable year by a business firm in comprehensive service
4 projects with six-year or longer commitments shall be
5 granted[.], and Provided further, That a tax credit of up to
6 seventy-five per cent of the total amount contributed during the
7 taxable year by a business firm in veterans' housing assistance
8 approved under section 1904-A(b.3) shall be granted. Such credit
9 shall not exceed five hundred thousand dollars (\$500,000)
10 annually for contributions or investments to fewer than four
11 projects or one million two hundred fifty thousand dollars
12 (\$1,250,000) annually for contributions or investments to four
13 or more projects. No tax credit shall be granted to any bank,
14 bank and trust company, insurance company, trust company,
15 national bank, savings association, mutual savings bank or
16 building and loan association for activities that are a part of
17 its normal course of business. Any tax credit not used in the
18 period the contribution or investment was made may be carried
19 over for the next five succeeding calendar or fiscal years until
20 the full credit has been allowed. A business firm shall not be
21 entitled to carry back or obtain a refund of an unused tax
22 credit. The total amount of all tax credits allowed pursuant to
23 this act shall not exceed eighteen million dollars (18,000,000)
24 in any one fiscal year. Of that amount, two million dollars
25 (\$2,000,000) shall be allocated exclusively for pass-through
26 entities. However, if the total amounts allocated to either the
27 group of applicants, exclusive of pass-through entities, or the
28 group of pass-through entity applicants is not approved in any
29 fiscal year, the unused portion shall become available for use
30 by the other group of qualifying taxpayers.

1 Section 39. Section 1902-B of the act is amended by adding
2 definitions to read:

3 Section 1902-B. Definitions.

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

7 * * *

8 "Master list." A list maintained by the contracting
9 authority of the legal business names, principal business
10 addresses within a neighborhood improvement zone and parcel
11 numbers of all qualified businesses which are required to file
12 reports for the calendar year under section 1904-B(a.1)(1). The
13 term shall also include the name, telephone number and e-mail
14 address of the person employed by the qualified business who is
15 primarily responsible for completing reports for the qualified
16 business required under section 1904-B(a.1).

17 * * *

18 "Operating organization." An entity which contracts directly
19 with the contracting authority to lease or operate a facility.

20 * * *

21 Section 40. Section 1904-B(a.1) and (b) of the act, added
22 July 9, 2013 (P.L.270, No.52), are amended and the section is
23 amended by adding subsections to read:

24 Section 1904-B. Neighborhood Improvement Zone Funds.

25 * * *

26 (a.1) Certification.--

27 (1) Within [30] 31 days of the end of each calendar
28 year, each qualified business shall file a report with the
29 department which complies with all of the following:

30 (i) States each State tax, calculated in accordance

1 with subsection (b), which was paid by the qualified
2 business in the prior calendar year.

3 (ii) Lists each State tax refund which complies with
4 all of the following:

5 (A) The refund is for a tax:

6 (I) set forth in subsection (b); and

7 (II) certified as paid under subsection (b).

8 (B) The refund was received in the prior
9 calendar year by the qualified business.

10 (iii) Is in a form and manner required by the
11 department.

12 (2) In addition to any penalties imposed under this act
13 for failure to timely pay State taxes, [failure] the
14 following shall apply:

15 (i) Failure to file a timely and complete report
16 under paragraph (1) shall result in the imposition of a
17 penalty of 10% of all State taxes, calculated in
18 accordance with subsection (b), which were payable by the
19 qualified business in the prior calendar year. In no case
20 shall the penalty imposed be less than \$1,000. When the
21 penalty is received, the money shall be transferred from
22 the General Fund to the fund of the contracting authority
23 that designated the neighborhood improvement zone in
24 which the qualifying business is located. Failure to file
25 a timely and complete report under paragraph (4) shall
26 result in the imposition of a penalty of 10% of all local
27 taxes, calculated in accordance with subsection (b) by a
28 contracting authority which were payable by the qualified
29 business in the prior calendar year. In no case shall the
30 penalty imposed be less than \$250.

1 (ii) Failure to report a qualified business
2 operating in the facility to the contracting authority by
3 an operating organization in accordance with subsection
4 (a.3)(2) shall result in the imposition of a penalty by
5 the contracting authority upon the operating
6 organization, of 100% of the taxes which would be
7 certified under subsection (b) for each qualified
8 business which is not reported to the contracting
9 authority or \$1,000, whichever is greater. The
10 contracting authority may not waive or abate any
11 penalties imposed under this subparagraph. When the
12 penalty is received, the money shall be transferred from
13 the General Fund to the fund of the contracting authority
14 that designated the neighborhood improvement zone in
15 which the qualifying business is located.

16 (iii) Failure to file a timely and complete report
17 under paragraph (1) by a qualified business engaged in
18 the active conduct of a trade or business during the
19 calendar year in the facility shall result in the
20 imposition of a penalty by the contracting authority upon
21 the operating organization equal to 100% of the taxes
22 paid which would be certified under subsection (b) for
23 each qualified business which fails to file a timely and
24 complete report. The penalty may not be less than \$1,000.
25 If the qualified business is properly included on the
26 master list provided under subsection (a.3), the
27 contracting authority may waive or abate penalties
28 imposed under this subparagraph equal to the total taxes
29 paid by the qualified business which are certified under
30 subsection (b). When the penalty is received, the money

1 shall be deposited in the fund of the contracting
2 authority that designated the neighborhood improvement
3 zone in which the qualifying business is located.

4 (3) [Any] Except as otherwise provided under paragraph
5 (2) (ii) and (iii), any penalty imposed under this subsection
6 shall be imposed, assessed and collected by the department
7 under the provisions for imposing, assessing and collecting
8 penalties under Article II. When the penalty is received, the
9 money shall be transferred from the General Fund to the fund
10 of the contracting authority that designated the neighborhood
11 improvement zone in which the qualified business is located.

12 (4) Within [30] 31 days of the end of each calendar
13 year, each qualified business shall file a report with the
14 local taxing authority reporting all local taxes, calculated
15 in accordance with subsection (b), which were paid by the
16 qualified business in the prior calendar year. The report
17 from each qualified business shall also list any local tax
18 refunds of taxes set forth in subsection (b) received in the
19 prior calendar year by the qualified business and any refunds
20 related to the local taxes as calculated in accordance with
21 subsection (b). The report shall be in a form and manner
22 required by the department.

23 * * *

24 (a.3) Master list.--The following shall apply:

25 (1) Except as provided under paragraph (2), within five
26 days of the end of each month, the legal business names,
27 business addresses within the neighborhood improvement zone
28 and parcel numbers of all qualified businesses engaged in the
29 active conduct of a trade or business during the previous
30 month shall be provided to the contracting authority by or on

1 behalf of the qualified business for purposes of inclusion on
2 the master list. The name, telephone number and e-mail
3 address of the person employed by the qualified business who
4 is primarily responsible for completing reports for the
5 qualified business required under subsection (a.1) shall also
6 be provided.

7 (2) For purposes of inclusion on the master list, within
8 five days of the end of each month during a calendar year, an
9 operating organization shall provide to the contracting
10 authority the legal business names and business addresses
11 within the neighborhood improvement zone of all qualified
12 businesses engaged in the active conduct of a trade or
13 business in the facility during the previous month along with
14 the name, phone number and e-mail address of the individual
15 employed by the qualified business who is primarily
16 responsible for completing the reports for the qualified
17 business required under subsection (a.1).

18 (3) Within 10 days of the end of each calendar year, the
19 contracting authority shall provide to the department the
20 master list. The department may not certify any taxes paid
21 directly or indirectly by a qualified business as provided
22 under subsection (b) during the prior calendar year when the
23 qualified business is not included on the master list.

24 (4) A contracting authority shall impose penalties for
25 failure to comply with this section.

26 (b) Calculation.--Within 60 days of the end of each calendar
27 year, the department shall certify separately for each
28 neighborhood improvement zone the amounts of State taxes paid,
29 less any State tax refunds received, by the qualified businesses
30 filing reports under subsection (a.1)(1) to the Office of the

1 Budget. Beginning in the first full calendar year following the
2 designation of a neighborhood improvement zone and in each
3 calendar year thereafter, by November 1, the department shall
4 calculate, in accordance with this subsection, amounts of State
5 taxes actually received by the Commonwealth from each qualified
6 business that filed a report under subsection (a.1)(1) in the
7 prior calendar year, and the department shall certify the
8 amounts received to the office. The department shall include
9 reports filed five months after the due date under subsection
10 (a.1)(1) in the November 1 certification. An entity collecting a
11 local tax within the neighborhood improvement zone shall, within
12 [30] 31 days of the end of each calendar year, submit all of the
13 local taxes that are to be calculated under this subsection and
14 which were paid in the prior calendar year, less any certified
15 local tax refunds received by a qualified business in the prior
16 calendar year, to the State Treasurer to be deposited in the
17 fund under subsection (d) of the contracting authority that
18 established the neighborhood improvement zone. This subsection
19 shall not apply to any taxes subject to a valid pledge or
20 security interest entered into in order to secure debt service
21 on bonds if the pledge or security interest was entered into
22 prior to May 1, 2011, or, in the case of the neighborhood
23 improvement zone designated after July 1, 2011, on the date of
24 the designation, and is still in effect. The following shall be
25 the amounts calculated and certified separately for each
26 neighborhood improvement zone:

- 27 (1) An amount equal to all corporate net income tax,
28 capital stock and franchise tax, personal income tax,
29 business privilege tax, business privilege licensing fees and
30 earned income tax related to the ownership and operation of a

1 professional sports organization conducting professional
2 athletic events at the facility or facility complex.

3 (2) An amount equal to all of the following:

4 (i) All personal income tax, earned income tax and
5 local services tax withheld from its employees by a
6 professional sports organization conducting professional
7 athletic events at the facility or facility complex.

8 (ii) All personal income tax, earned income tax and
9 local services tax withheld from the employees of any
10 provider of events at or services to or any operator of
11 an enterprise in the facility or facility complex.

12 (iii) All personal income tax, earned income tax and
13 local services tax to which the Commonwealth would be
14 entitled from performers or other participants, including
15 visiting teams, at an event or activity at the facility
16 or facility complex.

17 (3) An amount equal to all sales and use tax related to
18 the operation of the professional sports organization and the
19 facility and enterprises developed as part of the facility
20 complex. This paragraph shall include sales and use tax paid
21 by any provider of events or activities at or services to the
22 facility or facility complex, including sales and use tax
23 paid by vendors and concessionaires and contractors at the
24 facility or facility complex.

25 (4) An amount equal to all tax paid to the Commonwealth
26 related to the sale of any liquor, wine or malt or brewed
27 beverage in the facility or facility complex.

28 (5) The amount paid by the professional sports
29 organization or by any provider of events or activities at or
30 services to the facility or facility complex of any new tax

1 enacted by the Commonwealth following October 9, 2009.

2 (6) An amount equal to all personal income tax, earned
3 income tax and local services tax withheld from personnel by
4 the professional sports organization or by a contractor or
5 other entity involved in the construction of the facility or
6 facility complex.

7 (7) An amount equal to all sales and use tax paid on
8 materials and other construction costs, whether withheld or
9 paid by the professional sports organization or other entity,
10 directly related to the construction of the facility or
11 facility complex.

12 (8) An amount equal to all of the following:

13 (i) All corporate net income tax, capital stock and
14 franchise tax, personal income tax, business privilege
15 tax, business privilege licensing fees and earned income
16 tax related to the ownership and operation of any
17 qualified business within the neighborhood improvement
18 zone.

19 (ii) All personal income tax, earned income tax and
20 local services tax withheld from its employees by a
21 qualified business within the neighborhood improvement
22 zone.

23 (iii) All personal income tax, earned income tax and
24 local services tax withheld from the employees of a
25 qualified business that provides events, activities or
26 services in the neighborhood improvement zone.

27 (iv) All personal income tax, earned income tax and
28 local services tax to which the Commonwealth would be
29 entitled from performers or other participants at an
30 event or activity in the neighborhood improvement zone.

1 (v) All sales and use tax related to the operation
2 of a qualified business within the neighborhood
3 improvement zone. This subparagraph shall include sales
4 and use tax paid by a qualified business that provides
5 events, activities or services in the neighborhood
6 improvement zone.

7 (vi) All tax paid by a qualified business to the
8 Commonwealth related to the sale of any liquor, wine or
9 malt or brewed beverage within the neighborhood
10 improvement zone.

11 (vii) The amount paid by a qualified business within
12 the neighborhood improvement zone of any new tax enacted
13 by the Commonwealth following October 9, 2009.

14 (viii) All personal income tax, earned income tax
15 and local services tax withheld from personnel by a
16 qualified business involved in the improvement,
17 development or construction of the neighborhood
18 improvement zone.

19 (ix) All sales and use tax paid on materials and
20 other construction costs, whether withheld or paid by the
21 professional sports organization or other qualified
22 business, directly related to the improvement,
23 development or construction of the neighborhood
24 improvement zone.

25 (x) An amount equal to any amusement tax paid by a
26 qualified business operating in the neighborhood
27 improvement zone. No political subdivision or other
28 entity authorized to collect amusement taxes may impose
29 or increase the rate of any tax on admissions to places
30 of entertainment, exhibition or amusement or upon

1 athletic events in the neighborhood improvement zone
2 which are not in effect on the date the neighborhood
3 improvement zone is designated by the contracting
4 authority.

5 (9) Except for a tax levied against real property and
6 notwithstanding any other law, an amount equal to any tax
7 imposed by the Commonwealth or any of its political
8 subdivisions on a qualified business engaged in an activity
9 within the neighborhood improvement zone or directly or
10 indirectly on any sale or purchase of goods or services,
11 where the point of sale or purchase is within the
12 neighborhood improvement zone.

13 * * *

14 (h) Audit.--

15 (1) The contracting authority shall hire an independent
16 auditing firm to perform an annual audit verifying all of the
17 following:

18 (i) The correct amount of the eligible local tax was
19 submitted to the local taxing authorities.

20 (ii) The local taxing authorities transferred the
21 correct amount of eligible local tax to the State
22 Treasurer.

23 (iii) The money transferred to the fund was properly
24 expended.

25 (iv) The correct amount of excess money was refunded
26 in accordance with the provisions of subsection (g).

27 (2) A copy of the annual audit shall be sent to the
28 Department of Revenue and the Secretary of the Budget.

29 (3) For purposes of this paragraph, an auditing firm
30 will not be considered independent if it provides services to

1 an operating organization or any qualified business within a
2 neighborhood improvement zone which is a party to a separate
3 agreement with a contracting authority for the allocation of
4 funds from the contracting authority.

5 Section 41. The act is amended by adding sections to read:

6 Section 1904.1-B. Taxes.

7 (a) Prohibition.--A division of local government may not
8 assess real estate taxes on any property in a neighborhood
9 improvement zone owned by a contracting authority.

10 (b) Local hotel tax.--Notwithstanding any other law, revenue
11 generated from local hotel taxes levied in a neighborhood
12 improvement zone must first be set aside for new development and
13 capital improvement of hotel properties in the neighborhood
14 improvement zone. If there is no new hotel property development
15 or capital improvement in the neighborhood improvement zone, the
16 revenue generated from hotel taxes must be distributed as
17 provided under local hotel tax law.

18 (c) Amount.--For purposes of this article, revenue collected
19 from local hotel taxes shall only include the amount of local
20 hotel taxes collected from hotel activities which exceed the
21 amount collected from hotel activities occurring prior to the
22 designation of a neighborhood improvement zone by the
23 contracting authority.

24 Section 1904.2-B. Property assessment.

25 Notwithstanding 53 Pa.C.S. Ch. 88 (relating to consolidated
26 county assessment), for purposes of determining the assessed
27 value of property located in a neighborhood improvement zone,
28 the actual fair market value of the property shall be
29 established without utilizing or considering the cost approach
30 to valuation and any funds received by the contracting authority

1 and utilized directly or indirectly in connection with the
2 property shall not be considered real property or income
3 attributable to the property.

4 Section 1909-B. Exceptions.

5 Beginning with the 2016 calendar year, none of the following
6 may be employed by, be contracting with or provide services for
7 a contracting authority:

8 (1) An individual employed by, contracting with or
9 providing service for a city that has a neighborhood
10 improvement zone.

11 (2) An entity contracting with or providing services for
12 a city that has a neighborhood improvement zone.

13 (3) An individual owning an entity or an entity with
14 ownership interest in a separate entity which is contracting
15 with a city that has a neighborhood improvement zone.

16 (4) An individual or an entity employed by, contracting
17 with or providing services for a qualified business within
18 the neighborhood improvement zone which is party to a
19 separate agreement with a contracting authority for the
20 allocation of funds from the contracting authority.

21 (5) An individual or an entity employed by, contracting
22 with or providing services for an operating organization.

23 (6) A current board member of a contracting authority.

24 (7) An entity which is owned by or employs a current
25 board member of a contracting authority.

26 Section 42. Section 1903-C(e) (1) of the act, added July 9,
27 2013 (P.L.270, No.52), is amended to read:

28 Section 1903-C. Keystone Special Development Zone tax credit.

29 * * *

30 (e) Use and carryforward.--

1 (1) A Keystone Special Development Zone employer may
2 earn the tax credit allowed under this article beginning in
3 any tax year beginning in 2012 and for a period of up to ten
4 tax years during the [15-year] period beginning July 1, 2012,
5 and ending June 30, [2026] 2035.

6 * * *

7 Section 43. The act is amended by adding articles to read:

8 ARTICLE XIX-D

9 KEYSTONE OPPORTUNITY ZONES, KEYSTONE OPPORTUNITY EXPANSION
10 ZONES AND KEYSTONE OPPORTUNITY IMPROVEMENT ZONES

11 PART I

12 PRELIMINARY PROVISIONS

13 Section 1901-D. Scope.

14 This article relates to keystone opportunity zones, keystone
15 opportunity expansion zones and keystone opportunity improvement
16 zones.

17 Section 1902-D. Definitions.

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

21 "Business." As defined in section 103 of the KOZ Act.

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

24 "Keystone opportunity expansion zone." As defined in section
25 103 of the KOZ Act.

26 "Keystone opportunity zone." As defined in section 103 of
27 the KOZ Act.

28 "KOZ Act." The act of October 6, 1998 (P.L.705, No.92),
29 known as the Keystone Opportunity Zone, Keystone Opportunity
30 Expansion Zone and Keystone Opportunity Improvement Zone Act.

1 "Person." As defined in section 103 of the KOZ Act.

2 "Political subdivision." As defined in section 103 of the
3 the KOZ Act.

4 "Qualified business." As defined in section 103 of the KOZ
5 Act.

6 "Qualified political subdivision." As defined in section 103
7 of the KOZ Act.

8 "Subzone." As defined in section 103 of the KOZ Act.

9 "Unoccupied parcel." As defined in section 103 of the KOZ
10 Act.

11 PART II

12 KEYSTONE OPPORTUNITY ZONES

13 Section 1911-D. Additional keystone opportunity zones.

14 (a) Establishment.--In addition to any designations under
15 section 301.1 of the KOZ Act, the department may designate up to
16 12 additional keystone opportunity expansion zones that will
17 create new jobs in accordance with this section. Each additional
18 keystone opportunity expansion zone shall:

19 (1) Not be less than 10 acres in size, unless contiguous
20 to an existing zone.

21 (2) Not exceed, in the aggregate, a total of 375 acres.

22 (3) Be comprised of parcels that are deteriorated,
23 underutilized or unoccupied on the effective date of this
24 paragraph.

25 (b) Authorization.--Persons and businesses within an
26 additional keystone opportunity expansion zone authorized under
27 subsection (a) shall be entitled to all tax exemptions,
28 deductions, abatements or credits set forth under this section
29 and exemptions for sales and use tax under section 511(a) or
30 705(a) of the KOZ Act for a period of 10 years. Exemptions for

1 sales and use taxes under sections 511 and 705 of the KOZ Act
2 shall commence upon issuance of a certificate under section 307
3 of the KOZ Act by the department.

4 (c) Application.--In order to receive a designation under
5 this section, the department must receive an application from a
6 political subdivision or its designee no later than October 1,
7 2016. The application must contain the information required
8 under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ
9 Act. The department, in consultation with the Department of
10 Revenue, shall review the application and, if approved, issue a
11 certification of all tax exemptions, deductions, abatements or
12 credits under this act for the zone within three months of
13 receipt of the application. The department shall act on an
14 application for a designation under section 302(a)(1) of the KOZ
15 Act by December 31, 2016. The department may make designations
16 under this section on a rolling basis during the application
17 period.

18 (d) Additional eligibility.--A parcel previously included in
19 an application submitted for designation in a city of the first
20 class prior to the effective date of this subsection that
21 previously complied with all requirements of section 302 of the
22 KOZ Act shall be eligible for designation as a zone under this
23 section if the parcel was acquired by a new owner and will be
24 used for a higher and better use or will provide greater levels
25 of job creation or investment.

26 (e) Applicability.--All exemptions, deductions, abatements
27 and credits authorized under the KOZ Act shall apply to the
28 parcels for a period of 10 years.

29 Section 1912-D. Extension for new job creation or new capital
30 investment.

1 (a) Approval and effect.--

2 (1) The department may approve an application to grant
3 an extension for a parcel located within a keystone
4 opportunity zone, keystone opportunity expansion zone or
5 keystone opportunity improvement zone upon application by:

6 (i) one qualified business as a sole applicant; or

7 (ii) two or more qualified businesses as a joint
8 applicant.

9 (2) All exemptions, deductions, abatements and credits
10 authorized under Chapter 5 of the KOZ Act shall be extended
11 to the continued parcel for an additional period of 10 years
12 following the expiration date of the existing keystone
13 opportunity zone, keystone opportunity expansion zone or
14 keystone opportunity improvement zone or subzone.

15 (b) Application.--

16 (1) In order to receive approval under subsection (a)
17 (1), the department must receive an application from one or
18 more qualified businesses located within the zone or subzone
19 no later than three months prior to the expiration date of
20 the existing zone or subzone. The application shall include
21 all information required by the department as set forth in
22 guidelines to be published by the department.

23 (2) In order to submit an application under paragraph
24 (1), the applicant must:

25 (i) Have a cumulative minimum of 2,500 employees
26 located within this Commonwealth at the time of the
27 application.

28 (ii) Demonstrate a total prior minimum capital
29 investment within this Commonwealth of at least \$300
30 million.

1 (iii) Conduct active business operations from one or
2 more facilities located on the parcel or parcels which
3 are the subject of the application.

4 (iv) Otherwise be in compliance with the provisions
5 of the KOZ Act.

6 (3) The department, in consultation with the Department
7 of Revenue, shall review the application and, if approved,
8 issue a certification of all tax exemptions, deductions,
9 abatements or credits authorized under Chapter 5 of the KOZ
10 Act for the extended parcel within three months of receipt of
11 the application, subject to the requirements of this section.
12 If the department determines that all qualifications and
13 requirements under this section and the KOZ Act have been
14 met, a certification for the extension period shall be issued
15 within 90 days of receipt of the application.

16 (4) The certification under paragraph (3) shall be
17 effective as of the day following the expiration date of the
18 existing zone or subzone and shall be effective for an
19 additional period of 10 years.

20 (c) Qualifications.--

21 (1) The department shall issue to each qualified
22 business that is approved as part of the application
23 submitted under subsection (a) a certification as described
24 under section 307 of the KOZ Act.

25 (2) For an applicant with multiple parcels that will
26 expire during the time periods under subsection (e), in order
27 to receive certification under paragraph (1), the applicant
28 must commit that between the effective date of this paragraph
29 and three years following the date of certification of the
30 initial parcel applied for, the applicant shall:

1 (i) create at least 350 new jobs in this
2 Commonwealth; or

3 (ii) make a capital investment of at least
4 \$35,000,000 in this Commonwealth.

5 (3) Each qualified business that fails to meet the
6 requirements of paragraph (2) shall refund to the
7 Commonwealth the amount of the exemptions, deductions,
8 abatements and credits under Chapter 5 of the KOZ Act which
9 were received by that business during the three years
10 following receipt of the certification under paragraph (1).

11 (d) Expiration.--

12 (1) All continuations shall expire no later than 10
13 years following the effective date of certification by the
14 department.

15 (2) If the qualified business that is a sole applicant
16 removes itself from the continued parcel or parcel prior to
17 the expiration of the continuation, the continuation shall
18 expire upon the date of departure of that qualified business.

19 (3) If two or more qualified businesses submitted an
20 application under subsection (a) as joint applicants, this
21 subsection shall apply only if all the qualified businesses
22 that were the joint applicants remove themselves from the
23 parcel prior to the expiration of the continuation. In that
24 case, the continuation shall expire upon the date of
25 departure of the last qualified business.

26 (e) Applicability.--

27 (1) This section applies only to existing zones or
28 subzones that expire in 2018 or at any time following 2018
29 and prior to January 1, 2026.

30 (2) This section does not apply to exemptions,

1 deductions, abatements or credits authorized under Chapter 7
2 of the KOZ Act, and the department may not require that the
3 qualified political subdivision in which the continued parcel
4 or parcels are located approve any application submitted
5 under subsection (b).

6 (3) The exemptions, deductions, abatements or credits
7 authorized under Chapter 5 of the KOZ Act apply only to
8 business activity carried out within the parcel or parcels
9 which are approved for extension.

10 (4) A determination by the department as to whether the
11 employment or capital investment requirements of subsections
12 (b) and (c) have been met shall be binding upon the
13 Department of Revenue.

14 ARTICLE XIX-E

15 MIXED-USE DEVELOPMENT TAX CREDIT

16 Section 1901-E. Scope of article.

17 This article establishes the Mixed-use Development Tax
18 Credit, the Mixed-use Development Program and the Mixed-use
19 Development Program Fund.

20 Section 1902-E. Purpose.

21 The implementation and use of this program shall be for the
22 purposes of:

23 (1) Increasing affordable housing and commercial
24 corridor development opportunities in areas of this
25 Commonwealth where significant need and impact can be
26 identified.

27 (2) Maximizing the leveraging of private and public
28 resources.

29 (3) Fostering sustainable partnerships committed to
30 addressing community needs.

1 (4) Ensuring that resources are used to effectively and
2 efficiently meet community needs.

3 (5) Establishing a transparent application, allocation
4 and reporting process for all stakeholders.

5 (6) Providing financing to critical projects as part of
6 an overall strategy for revitalizing communities.

7 Section 1903-E. Definitions.

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

11 "Agency." The Pennsylvania Housing Finance Agency.

12 "Department." The Department of Revenue of the Commonwealth.

13 "Eligible projects." A building or buildings to be
14 constructed or rehabilitated and any related real or personal
15 property:

16 (1) located in a commercial corridor where a
17 comprehensive neighborhood revitalization strategy is either
18 in place or being developed;

19 (2) sponsored by an entity with development experience
20 in this Commonwealth, with capacity to complete the project
21 and qualified under the criteria established in guidelines
22 developed by the agency;

23 (3) financed by a combination of public or private debt
24 financing, gap financing or owner equity sufficient to ensure
25 the financial feasibility of the project;

26 (4) has sufficiently demonstrated site control and
27 ability to proceed;

28 (5) complies with any other eligibility requirements the
29 agency determines to be appropriate.

30 "Fund." The Mixed-use Development Program Fund established

1 under section 1906-E.

2 "Mixed-use development tax credits." Amounts made available
3 to qualified taxpayers to offset against qualified tax liability
4 as authorized and allocated under this article, as evidenced by
5 tax credit certificates and meeting all of the criteria set
6 forth in this article.

7 "Program." The Mixed-use Development Program established
8 under section 1904-E.

9 "Qualified tax liability." The tax liability imposed on a
10 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV,
11 excluding any tax withheld by an employer under Article III.

12 "Qualified taxpayer." Any natural person, business firm,
13 corporation, business trust, limited liability company,
14 partnership, limited liability partnership, association or any
15 other form of legal business entity that:

16 (1) is subject to a tax imposed under Article III, IV,
17 VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an
18 employer under Article III; and

19 (2) meets the criteria set forth in guidelines
20 established by the agency.

21 "Tax credit certificates." The document provided by the
22 agency to the qualified taxpayer evidencing the allocation of
23 mixed-use development tax credits under section 1907-E.

24 Section 1904-E. Mixed-use Development Program.

25 (a) Establishment.--The Mixed-use Development Program is
26 established as a program of the agency.

27 (b) Administration.--The program shall be administered by
28 the agency in accordance with section 1905-E and with guidelines
29 adopted and promulgated pursuant to this article.

30 Section 1905-E. Program administration.

1 (a) Authorization.--The agency is authorized to perform all
2 necessary and convenient actions to implement the program.

3 (b) Application.--Eligible project owners may apply to the
4 agency for program funding for an eligible project. The agency
5 shall promulgate guidelines for applying for program funding
6 under this section.

7 (c) Selection.--The agency shall review applications
8 submitted for program funds and, in accordance with the
9 procedures established in the agency guidelines, shall select
10 and shall conditionally commit program funds to the eligible
11 projects. Eligible project owners shall provide the agency with
12 all program requirements necessary for closing and funding of
13 the eligible project in a form and a timely manner as determined
14 by the agency.

15 (d) Disbursement.--Funds shall be disbursed to the eligible
16 project owner as determined by the agency.

17 (e) Monitoring and cost certification.--The agency shall
18 establish procedures for the monitoring of the use of funds and
19 for a cost certification process at the end of the construction
20 or rehabilitation process.

21 (f) Agency guidelines.--Within 180 days of the effective
22 date of this article, the agency shall perform the following:

23 (1) Adopt guidelines establishing the agency's
24 priorities.

25 (2) Establish a method for:

26 (i) applying and distributing program funds; and
27 (ii) the sale of the tax credits under section 1907-
28 E(d).

29 (g) Notice and comment.--The agency shall publish proposed
30 guidelines, including a comment response document, in the

1 Pennsylvania Bulletin and on the agency's publicly accessible
2 Internet website for public comments no later than 45 days prior
3 to adoption. All comments submitted to the agency in writing
4 shall be public records and shall be incorporated into the
5 comment response document.

6 (h) Report.--Within 90 days following the close of the first
7 calendar year in which tax credits are made available, and by
8 July 1 of every year thereafter, the agency, in consultation
9 with the department, shall issue a report containing:

10 (1) A financial statement.

11 (2) An itemized list of the following:

12 (i) projects funded;

13 (ii) qualified taxpayers applying for tax credits;

14 and

15 (iii) tax credits certificates issued.

16 (3) A description of other expenditures in the preceding
17 calendar year.

18 (i) Submission of report.--The report under subsection (h)
19 shall constitute a public record and shall be published on the
20 agency's publicly accessible Internet website and submitted to
21 the following:

22 (1) The Governor.

23 (2) The Auditor General.

24 (3) The chair and minority chair of the Urban Affairs
25 and Housing Committee of the Senate.

26 (4) The chair and the minority chair of the Commerce
27 Committee of the House of Representatives.

28 Section 1906-E. Mixed-use Development Program Fund.

29 (a) Establishment.--The Mixed-use Development Program Fund
30 is established as a separate account within the agency for the

1 sole purpose of implementing the provisions of this article.

2 (b) Prohibition.--No other agency funds, money or interest
3 earnings shall be utilized for purposes of this article.

4 (c) Deposit.--All money allocated or appropriated to the
5 program shall be deposited into the fund and shall be
6 appropriated to the agency on a continuing basis to carry out
7 the provisions of this article.

8 (d) Funds.--The fund shall include money and proceeds
9 generated through the sale and allocation of mixed-use
10 development tax credits, capital investments, penalties, fees
11 and costs, interest and earnings pursuant to this article as
12 well as grants or donations from other sources and any funds
13 that may be appropriated for these purposes by the General
14 Assembly under this article. Interest and any other earnings
15 shall remain in the fund.

16 (e) Use of money.--The agency may use any available money in
17 the fund for administrative costs and for purposes consistent
18 with this article.

19 Section 1907-E. Mixed-use development tax credits.

20 (a) Tax credit authority.--For purposes, and in accordance
21 with the provisions of this article, the agency may allocate an
22 amount not to exceed \$2,000,000 in each fiscal year in mixed-use
23 development tax credits and is directed to deposit proceeds and
24 earnings derived from the sale into the fund.

25 (b) Establishment and authorization.--The agency shall have
26 the authority to perform actions necessary or convenient to
27 establish protocols and procedures to sell and distribute mixed-
28 use development tax credits, directly or indirectly, to achieve
29 the purposes of this program.

30 (c) Limitations.--A qualified taxpayer may only purchase

1 mixed-use development tax credits from the agency and may only
2 apply such credits against the qualified taxpayer's qualified
3 tax liability in accordance with this article.

4 (d) Sale procedures.--Mixed-use development tax credits may
5 be offered by the agency through direct or negotiated sale to
6 qualified taxpayers.

7 (e) Procedures.--The agency shall adopt procedures and
8 application criteria that shall be designed to deliver the
9 mixed-use development tax credits in the manner deemed most
10 appropriate to maximize the highest yield to the Commonwealth,
11 to achieve a timely and equitable execution of the delivery of
12 mixed-use development tax credits and to achieve the goals and
13 purposes of the program. Procedures for the sale and application
14 criteria proposed by the agency shall be made available for
15 public comment in a manner consistent with section 1905-E(g).

16 (f) Application.--A qualified taxpayer seeking to purchase a
17 mixed-use development tax credit may apply to the agency in the
18 manner prescribed by the agency as set forth in the guidelines
19 adopted pursuant to this article. The agency may require
20 applicants provide evidence of the taxpayer's qualifications.
21 Section 1908-E. Payment for mixed-use development tax credits.

22 (a) Payment of capital.--Capital committed by a qualified
23 taxpayer shall be paid to the agency for deposit into the Mixed-
24 use Development Program Fund. The agency may establish an
25 installment payment schedule for payments to be made by the
26 qualified taxpayer in accordance with guidelines established by
27 the agency.

28 (b) Issuance of tax credit certificates.--Beginning July 1,
29 2017, the agency shall issue to each qualified taxpayer a tax
30 credit certificate upon receipt of payment of capital.

1 (c) Certificate form.--The agency shall issue tax credit
2 certificates to qualified taxpayers in a form determined by the
3 agency in consultation with the department.

4 (d) Contents.--The tax credit certificate shall contain all
5 of the following:

6 (1) The total amount of tax credits that a qualified
7 taxpayer may claim.

8 (2) The amount of capital that the qualified taxpayer
9 has contributed or agreed to contribute in return for the
10 issuance of the tax credit certificate.

11 (3) The possible penalties or other remedies for
12 noncompliance.

13 (4) The requirements for transferring the tax credits to
14 other qualified taxpayers.

15 (5) Limitations and procedures for carryover of the tax
16 credit.

17 (6) Reporting requirements.

18 (7) Any other requirements or content the agency, in
19 consultation with the department, considers appropriate.

20 Section 1909-E. Failure to make contribution of capital and
21 reallocation.

22 (a) Prohibition.--A tax credit certificate under section
23 1908-E may not be issued to a qualified taxpayer who fails to
24 comply with agency guidelines.

25 (b) Penalty.--After the agency issues a tax credit
26 certificate, a qualified taxpayer who fails to contribute
27 capital in accordance with the agreed upon schedule of payments,
28 or other conditions as determined by the agency, shall be
29 subject to a penalty equal to 10% of the amount of capital that
30 remains unpaid and assessment of costs and fees by the agency.

1 The penalty shall be paid to the agency within 30 days after
2 demand. A qualified taxpayer who fails to make a contribution
3 within the specified time period may be subject to Commonwealth
4 debarment, forfeiture or liquidation of any pledged collateral
5 or to such other actions as deemed appropriate by the agency.
6 All penalties, fees and costs shall be deposited into the fund
7 to be used for the program.

8 (c) Reallocation.--The agency may, under guidelines
9 promulgated by the agency, recapture and redeploy any defaulted
10 capital. The agency shall make the credit available to other
11 qualified taxpayers with minimal delay and cost to the program.

12 (d) Avoidance of penalty.--The agency may allow a qualified
13 taxpayer that fails to make a contribution of capital within the
14 time specified to avoid a penalty by transferring the allocation
15 of tax credits to another qualified taxpayer within 30 days
16 after the due date of the defaulted installment. Any transferee
17 of an allocation of tax credits of a defaulting qualified
18 taxpayer under this subsection shall be subject to all
19 requirements of the agency and must agree to make the required
20 contribution of capital within 30 days after the date of the
21 transfer.

22 Section 1910-E. Claiming the credit.

23 (a) General rule.--Upon presenting a tax credit certificate
24 issued and verified by the agency to the department, the
25 qualified taxpayer may claim a tax credit against the qualified
26 tax liability of the qualified taxpayer.

27 (b) Time period.--Presentation must be made no later than
28 the last day of the second calendar month of the calendar year
29 in which the credit is available. No tax credit will be provided
30 unless the qualified taxpayer provides presentation to both the

1 agency and to the department.

2 Section 1911-E. Carryover, carry back and assignment of credit.

3 (a) General rule.--The agency, in consultation with the
4 department, shall establish guidelines that include procedures
5 for the carryover, assignment and transfer of credits and
6 reports on utilization.

7 (b) Carryover.--If a qualified taxpayer cannot use the
8 entire amount of the tax credit for the taxable year in which
9 the tax credit is first approved, the excess credit may be
10 carried over to subsequent taxable years and used as a credit
11 against the qualified tax liability of the qualified taxpayer
12 for those taxable years. Each time the tax credit is carried
13 over to a succeeding taxable year, it shall be reduced by the
14 amount that was used as a credit during the immediately
15 preceding taxable year. In no event shall tax credits provided
16 by this article be carried over and applied to succeeding
17 taxable years more than seven taxable years following the first
18 taxable year for which the qualified taxpayer was entitled to
19 claim the credit.

20 (c) Application.--A tax credit received by the department in
21 a taxable year shall first be applied against the qualified
22 taxpayer's qualified tax liability for the current taxable year
23 as of the date on which the credit was issued before any carried
24 over tax credits can be applied against any qualified tax
25 liability.

26 (d) No carry back or refund.--A qualified taxpayer may not
27 carry back or obtain a refund of all or any portion of an unused
28 tax credit granted to the qualified taxpayer under this article.

29 (e) Sale or assignment.--A qualified taxpayer, upon
30 application and approval by the agency and in conformance with

1 the agency's guidelines, may sell or assign, in whole or in
2 part, a tax credit granted to the qualified taxpayer under this
3 article.

4 (f) Purchasers and assignees.--The purchaser or assignee of
5 all or a portion of a tax credit obtained under subsection (e)
6 must be a qualified taxpayer and must immediately claim the
7 credit in the taxable year in which the purchase or assignment
8 is made. The purchaser or assignee may not carry over, carry
9 back or obtain a refund or otherwise sell or assign the tax
10 credit. The purchaser or assignee shall notify the agency of the
11 utilization of the tax credit in compliance with procedures
12 specified by the agency.

13 (g) Pass-through entity distributions.--The following shall
14 apply:

15 (1) A pass-through entity may elect, in writing,
16 according to procedures established by the agency, to
17 transfer all or a portion of unused tax credits to
18 shareholders, members or partners in proportion to the share
19 of the entity's distributive income to which the shareholder,
20 member or partner is entitled.

21 (2) A pass-through entity and a shareholder, member or
22 partner of a pass-through entity shall not claim the credit
23 under paragraph (1) for the same qualified expenditures.

24 (3) A shareholder, member or partner of a pass-through
25 entity to whom a credit is transferred under paragraph (1)
26 must claim the credit in the taxable year in which the
27 transfer is made. The shareholder, member or partner may not
28 carry over, carry back, obtain a refund of or sell or assign
29 the credit.

30

ARTICLE XIX-F

1 KEYSTONE INNOVATION ZONES

2 Section 1901-F. Scope of article.

3 This article relates to the Keystone Innovation Zone Program.

4 Section 1902-F. Definitions.

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

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

10 "Institution of higher education." A public or private
11 institution within this Commonwealth authorized by the
12 Department of Education to grant an associate degree or higher
13 degree. The term includes branch or satellite campus of the
14 institution.

15 "Keystone innovation zone." A clearly defined contiguous
16 geographic area comprised of portions of one or more political
17 subdivisions.

18 "Keystone innovation zone company." A for-profit business
19 entity which is all of the following:

20 (1) Located within a keystone innovation zone.

21 (2) Has been in operation for less than eight years.

22 (3) Falls within one of the targeted industry segments
23 adopted by the keystone innovation zone partnership in its
24 strategic plan.

25 "Keystone innovation zone coordinator." A nonprofit
26 organization which is all of the following:

27 (1) Not an institution of higher education.

28 (2) Chosen by a keystone innovation zone partnership and
29 agreed to by the department to administer the activities of a
30 keystone innovation zone.

1 "Keystone innovation zone partnership." Any association or
2 group which is all of the following:

3 (1) Comprised of at least one institution of higher
4 education and a combination of private businesses, business
5 support organizations, commercial lending institutions,
6 venture capital companies, angel investor networks or
7 foundations.

8 (2) Formed for the creation and administration of a
9 keystone innovation zone.

10 "KIZ." A keystone innovation zone.

11 "KIZ company." A keystone innovation zone company.

12 "KIZ coordinator." A keystone innovation zone coordinator.

13 "KIZ partnership." A keystone innovation zone partnership.

14 Section 1903-F. Program.

15 (a) Establishment.--There is established a program in the
16 department to be known as the Keystone Innovation Zone Program.
17 The program shall provide economic assistance to KIZ companies
18 for the purpose of improving and encouraging research and
19 development efforts and technology commercialization efforts
20 resulting in employment growth and revitalization of
21 communities.

22 (b) Application.--A keystone innovation zone partnership may
23 apply to the department to establish a keystone innovation zone.
24 All applications must be received by July 1, 2007, be on the
25 form required by the department and include and demonstrate all
26 of the following:

27 (1) The KIZ coordinator's name and address.

28 (2) A statement that the applicant is a KIZ partnership
29 and the identity of its members.

30 (3) The geographic boundaries of the proposed keystone

1 innovation zone.

2 (4) A copy of a written strategic plan adopted by the
3 KIZ partnership describing the targeted industry segments
4 which the KIZ will foster.

5 (5) Any other information required by the department.

6 (c) Review and designation.--The department shall review the
7 application. Upon being satisfied that all requirements have
8 been met, the department may approve the application. If the
9 department approves the application, the department shall
10 designate the identified area as a keystone innovation zone and
11 accept the organization designated as the KIZ coordinator for
12 the zone.

13 Section 1904-F. Assistance.

14 (a) Existing programs.--A KIZ company shall be eligible and
15 may be given priority consideration in applying for assistance
16 under any of the following:

17 (1) 12 Pa.C.S. (relating to commerce and trade).

18 (2) The act of May 17, 1956 (1955 P.L.1609, No.537),
19 known as the Pennsylvania Industrial Development Authority
20 Act.

21 (3) The act of August 23, 1967 (P.L.251, No.102), known
22 as the Economic Development Financing Law.

23 (4) The act of June 22, 2001 (P.L.569, No.38), known as
24 The Ben Franklin Technology Development Authority Act.

25 (5) The act of June 29, 1996 (P.L.434, No.67), known as
26 the Job Enhancement Act.

27 (6) The act of June 26, 2001 (P.L.755, No.77), known as
28 the Tobacco Settlement Act.

29 (7) Any other act enacted after the effective date of
30 this subsection which has economic development assistance as

1 its primary objective.

2 (b) Loans of the Pennsylvania Industrial Development

3 Authority.--The board of the Pennsylvania Industrial Development

4 Authority may provide loans to entities for land and structures,

5 including structures providing space for research and

6 development activities, in which, when completed, at least one

7 KIZ company will be located. If the structure is intended to

8 accommodate more than one KIZ company, at least 80% of the space

9 in the structure must be leased to KIZ companies. The board may

10 establish the eligibility criteria, the interest rate, the loan

11 term and the participation rate to be applied to these projects.

12 (c) KIZ operation grants.--

13 (1) The Ben Franklin Technology Development Authority

14 may provide an annual KIZ operation grant of up to \$250,000

15 to a keystone innovation zone coordinator for administrative

16 costs incurred in establishing and implementing the keystone

17 innovation zone.

18 (2) In subsequent years, a grant shall be reduced in

19 accordance with all of the following:

20 (i) By 25% of the initial amount in the second year.

21 (ii) By 50% of the initial amount of the grant in

22 the third year.

23 (iii) By 75% of the initial amount of the grant in

24 the fourth year.

25 (3) The Ben Franklin Technology Development Authority

26 shall develop guidelines for the application, receipt and use

27 of operation grant funds.

28 Section 1905-F. Keystone innovation grants.

29 (a) Grants.--The department may provide keystone innovation

30 grants to institutions of higher education to facilitate

1 technology transfer, including patent filings, technology
2 licensing, intellectual property and royalty agreements and
3 other designated resource needs. The application must be on the
4 form required by the department and must include or demonstrate
5 all of the following:

6 (1) The applicant's name and address.

7 (2) The KIZ partnership of which the applicant is a
8 member.

9 (3) A written proposal. The proposal must state all of
10 the following:

11 (i) The technology transfer activities to be
12 undertaken. The activities may include the addition of
13 personnel who are directly related in transferring
14 technology to the local businesses.

15 (ii) The quantifiable goals and objectives to be
16 achieved.

17 (iii) How the activities, goals and objectives will
18 integrate with the strategic plan adopted for the KIZ.

19 (iv) The role of the applicant and other members of
20 the KIZ partnership.

21 (4) Identification of a dollar-to-dollar match, which
22 may be in kind if the department determines that the proposed
23 match can be readily identified and tracked and which is
24 directly related to the stated goals and objectives.

25 (5) Any other information required by the department.

26 (b) Approval.--The department shall review the application
27 and, upon being satisfied that all requirements have been met,
28 the department may approve the application. Prior to releasing
29 grant funds, the department shall enter into a contract with the
30 applicant that contains all of the following:

1 (1) The grant may not exceed \$250,000 per year.

2 (2) Grants under this program shall not exceed \$750,000
3 in the aggregate per applicant under this program.

4 (3) The aggregate amount of grants awarded to all
5 applicants under this subsection shall not exceed \$10,000,000
6 under this program.

7 (c) Penalty.--

8 (1) Except as provided in paragraph (2), the department
9 shall impose a penalty upon a recipient of a grant for any of
10 the following:

11 (i) If the recipient fails to use the grant for the
12 technology transfer activities specified in the
13 application.

14 (ii) If the recipient's membership in the KIZ
15 partnership is terminated voluntarily or involuntarily.

16 (2) The department may waive the penalty required by
17 paragraph (1) if the department determines that the failure
18 was due to circumstances outside the control of the grant
19 recipient.

20 (3) A penalty imposed under paragraph (1) shall be equal
21 to the full amount of the grant received plus an additional
22 amount of up to 10% of the amount of the grant received. The
23 penalty shall be payable in one lump sum or in installments,
24 with or without interest, as the department deems
25 appropriate.

26 Section 1906-F. Keystone innovation zone tax credits.

27 (a) Tax credit.--A KIZ company may claim a tax credit equal
28 to 50% of the increase in the KIZ company's gross revenues in
29 the immediately preceding taxable year attributable to
30 activities in the KIZ over the KIZ company's gross revenues in

1 the second preceding taxable year attributable to its activities
2 in the KIZ. A tax credit for a KIZ company shall not exceed
3 \$100,000 annually. For the purposes of the keystone innovation
4 zone tax credit, the term "gross revenues" may include grants
5 received by the KIZ company from any source whatsoever.

6 (b) Application for tax credit.--A KIZ company may file an
7 application for a tax credit with the department. An application
8 under this subsection must be filed by September 15 of each year
9 for the prior taxable year, beginning September 15, 2006. The
10 application must be submitted on a form required by the
11 department and must be accompanied by a certification from the
12 KIZ coordinator that the KIZ company falls within a targeted
13 industry segment identified in the strategic plan adopted by the
14 KIZ partnership. The department shall review the application
15 and, upon being satisfied that all requirements have been met,
16 the department shall issue a tax credit certificate to the KIZ
17 company. All certificates shall be awarded by December 15 of
18 each year.

19 (c) Limitation on tax credits.--

20 (1) The total amount of tax credits approved by the
21 department shall not exceed \$15,000,000 for any one taxable
22 year.

23 (2) If \$15,000,000 of the tax credits are not approved
24 for any one taxable year, the unused portion shall not be
25 available for use in future taxable years.

26 (3) If the total amount of tax credits applied for by
27 all taxpayers for any one taxable year exceeds \$15,000,000,
28 then the tax credit to be received by each applicant shall be
29 determined as follows:

30 (i) Divide:

1 (A) the eligible tax credit applied for by the
2 applicant; by

3 (B) the total of all eligible tax credits
4 applied for by all applicants.

5 (ii) Multiply:

6 (A) the quotient under subparagraph (i); by

7 (B) \$15,000,000.

8 (d) Application of tax credit and election.--A tax credit
9 approved under this section must be first applied against the
10 KIZ company's tax liability under Article III, IV or VI, for the
11 taxable year during which the tax credit is approved. If the
12 amount of tax liability owed by the KIZ company is less than the
13 amount of the tax credit, the KIZ company may elect to carry
14 forward the amount of the remaining tax credit for a period not
15 to exceed four additional taxable years and to apply the credit
16 against tax liability incurred during those tax years; or the
17 KIZ company may elect to sell or assign a portion of the tax
18 credit in accordance with the provisions of subsection (f). A
19 KIZ company may not carry back or obtain a refund of an unused
20 keystone innovation zone tax credit.

21 (e) Pennsylvania S corporation shareholder pass-through.--

22 (1) If a Pennsylvania S corporation does not have an
23 eligible tax liability against which the tax credit may be
24 applied, a shareholder of the Pennsylvania S corporation is
25 entitled to a tax credit equal to the product of:

26 (i) the tax credit determined for the Pennsylvania S
27 corporation for the taxable year; and

28 (ii) the percentage of the Pennsylvania S
29 corporation's distributive income to which the
30 shareholder is entitled.

1 (2) The credit provided under paragraph (1) is in
2 addition to any tax credit to which a shareholder of the
3 Pennsylvania S corporation is otherwise entitled. However, a
4 Pennsylvania S corporation and a shareholder of the
5 Pennsylvania S corporation may not claim a tax credit under
6 this section for the same activity.

7 (f) Sale or assignment of tax credit.--

8 (1) Upon application to and approval by the department,
9 a KIZ company which has been awarded a tax credit may sell or
10 assign, in whole or in part, the tax credit granted to the
11 KIZ company. The application must be on the form required by
12 the department and must include or demonstrate all of the
13 following:

14 (i) The applicant's name and address.

15 (ii) A copy of the tax credit certificate previously
16 issued by the department.

17 (iii) A statement as to whether any part of the tax
18 credit has been applied to tax liability of the applicant
19 and the amount so applied.

20 (iv) Any other information required by the
21 department.

22 (2) The department shall review the application and,
23 upon being satisfied that all requirements have been met, the
24 department may approve the application and shall notify the
25 Department of Revenue.

26 (g) Use of sold or assigned tax credit.--The purchaser or
27 assignee of all or a portion of a keystone innovation zone tax
28 credit under this section shall claim the credit in the taxable
29 year in which the purchase or assignment is made. The purchaser
30 or assignee of a tax credit may use the tax credit against any

1 tax liability of the purchaser or assignee under Article III,
2 IV, VI, VII, VIII, IX or XV. The amount of the tax credit used
3 may not exceed 75% of the purchaser's or assignee's tax
4 liability for the taxable year. The purchaser or assignee may
5 not carry over, carry back, obtain a refund of or assign the
6 keystone innovation zone tax credit. The purchaser or assignee
7 shall notify the department and the Department of Revenue of the
8 seller or assignor of the keystone innovation zone tax credit in
9 compliance with procedures specified by the department.

10 Section 1907-F. Guidelines.

11 Before any keystone innovation zone is approved by the
12 department, the department shall approve written guidelines for
13 the program and shall provide a copy of the guidelines to the
14 Majority Leader and Minority Leader of the Senate, the Majority
15 Leader and Minority Leader of the House of Representatives, the
16 chairman and minority chairman of the Appropriations Committee
17 of the Senate and the chairman and minority chairman of the
18 Appropriations Committee of the House of Representatives.

19 Section 1908-F. Annual report.

20 The department shall submit an annual report to the Secretary
21 of the Senate and the Chief Clerk of the House of
22 Representatives indicating the effectiveness of the keystone
23 innovation zone tax credit provided by this article by December
24 31 of each year, beginning December 31, 2007. Notwithstanding
25 any law providing for the confidentiality of tax records, the
26 report shall include the names of all taxpayers awarded the
27 credits, all taxpayers utilizing the credits, the amount of
28 credits approved and utilized by each taxpayer and the locations
29 of the KIZ companies awarded the credits. The report shall be a
30 public document.

1 Section 44. Section 2010 of the act, amended December 23,
2 2003 (P.L.250, No.46), is amended to read:

3 Section 2010. Limited Tax Credits.--(a) The General
4 Assembly of the Commonwealth, conscious of the financial
5 pressures facing small brewers in Pennsylvania and the attendant
6 risk of business failure and loss of employment opportunity,
7 declares it public policy that renewal and improvement of small
8 brewers be encouraged and assisted by a limited tax subsidy to
9 be granted during the period set forth in this section.

10 (b) As used in this section:

11 "Amounts paid." The phrase means (i) amounts actually paid,
12 or (ii) at the taxpayer's election, amounts promised to be paid
13 under firm purchase contracts actually executed during any
14 calendar year falling within the effective period of this
15 section: Provided, however, That there shall be no duplication
16 of "amounts paid" under this definition.

17 "Effective period." The period from January 1, 1974, to
18 December 31, 2008, and the period after June 30, 2017,
19 inclusive.

20 "Qualifying capital expenditures." Amounts paid by a
21 taxpayer during the effective period of this section for the
22 purchase of items of plant, machinery or equipment for use by
23 the taxpayer within this Commonwealth in the manufacture and
24 sale of malt or brewed beverages: Provided, however, That the
25 total amount of qualifying capital expenditures made by a
26 taxpayer within a single calendar year shall not exceed two
27 hundred thousand dollars (\$200,000).

28 "Secretary." The Secretary of Revenue of the Commonwealth of
29 Pennsylvania where not otherwise qualified.

30 "Taxpayer." A manufacturer of malt or brewed beverages

1 claiming a tax credit or credits under this section [and having
2 an annual production of malt or brewed beverages that does not
3 exceed one million five hundred thousand (1,500,000) barrels].

4 (c) A tax credit or credits shall be allowed for each
5 calendar year to a taxpayer, as hereinafter provided, not to
6 exceed in total amount the amount of qualifying capital
7 expenditures made by the taxpayer and certified by the
8 secretary.

9 (d) A taxpayer desiring to claim a tax credit or credits
10 under this section shall, within one year of the date of the
11 original purchase of the qualifying capital expenditures, in
12 accordance with regulations promulgated by the secretary, report
13 annually to the secretary the nature, amounts and dates of
14 qualifying capital expenditures made by him and such other
15 information as the secretary shall require. If satisfied as to
16 the correctness of such a report, the secretary shall issue to
17 the taxpayer a certificate establishing the amount of qualifying
18 capital expenditures made by the taxpayer and included within
19 said report. The taxpayer shall also provide to the secretary
20 the number of employees, total production of malt or brewed
21 beverages and the amount of capital expenditures made by the
22 taxpayer at each location operated by the taxpayer or a parent
23 corporation, subsidiary, joint venture or affiliate. Also, the
24 taxpayer shall notify the secretary of any contract for
25 production held with another manufacturer. The secretary shall
26 file a report annually with the Chief Clerk of the House of
27 Representatives and with the Secretary of the Senate outlining
28 the employment, production, expenditures and tax credits
29 authorized under this section.

30 (e) Upon receipt from a taxpayer of a certificate from the

1 secretary issued under subsection (c), the Secretary of Revenue
2 shall grant a tax credit or credits in the amount certified
3 against any tax due under this article in the calendar year in
4 which the expenditures were incurred or against any tax becoming
5 due from the taxpayer under this article in the following three
6 calendar years. No credit shall be allowed against any tax due
7 for any taxable period ending after December 31, 2008, and
8 beginning before July 1, 2017.

9 (f) The total amount of tax credits granted under this
10 section shall not exceed five million dollars (\$5,000,000) in
11 any fiscal year.

12 (g) If the total amount of tax credits granted for all
13 taxpayers exceeds the limitation on the amount of tax credits
14 under this section in a fiscal year, the tax credit to be
15 received by each applicant shall be determined as follows:

16 (1) Divide:

17 (i) the tax credit granted for the taxpayer; by

18 (ii) the total of all tax credits granted for all taxpayers.

19 (2) Multiply:

20 (i) the amount under subsection (f); by

21 (ii) the quotient under paragraph (1).

22 (3) The algebraic form of the calculation under this
23 subsection is:

24 Taxpayer's tax credit = amount allocated for those tax
25 credits X (tax credit granted to the taxpayer/total of all tax
26 credits granted to all taxpayers).

27 Section 45. The definition of "members of the same family"
28 in section 2102 of the act, added July 2, 2012 (P.L.751, No.85),
29 is amended to read:

30 Section 2102. Definitions.--The following words, terms and

1 phrases, when used in this article, shall have the meanings
2 ascribed to them in this section, except where the context
3 clearly indicates a different meaning:

4 * * *

5 "Members of the same family." Any individual, such
6 individual's brothers and sisters, the brothers and sisters of
7 such individual's parents and grandparents, the ancestors and
8 lineal descendants of any of the foregoing, a spouse of any of
9 the foregoing and the estate of any of the foregoing.

10 Individuals related by the half blood or legal adoption shall be
11 treated as if they were related by the whole blood. For a
12 transfer made by a surviving spouse, the term shall include any
13 individual considered to be a member of the same family of the
14 decedent spouse.

15 Section 46. Section 2111(s), (s.1) and (t) of the act, added
16 July 2, 2012 (P.L.751, No.85) and July 9, 2013 (P.L.270, No.52),
17 are amended to read:

18 Section 2111. Transfers Not Subject to Tax.--* * *

19 (s) A transfer of real estate devoted to the business of
20 agriculture [between] to or for the benefit of members of the
21 same family, provided that after the transfer the real estate
22 continues to be devoted to the business of agriculture for a
23 period of seven years beyond the transferor's date of death
24 [and], the real estate derives a yearly gross income of at least
25 two thousand dollars (\$2,000) and the real estate is reported on
26 a timely filed inheritance tax return, provided that:

27 (1) Any tract of land under this article which is no longer
28 devoted to the business of agriculture within seven years beyond
29 the transferor's date of death or does not derive a yearly gross
30 income of at least two thousand dollars (\$2,000) shall be

1 subject to inheritance tax due the Commonwealth under section
2 2107, in the amount that would have been paid or payable on the
3 basis of valuation authorized under section 2121 for nonexempt
4 transfers of property, plus interest thereon accruing as of the
5 transferor's date of death, at the rate established in section
6 2143.

7 (2) Any tax imposed under section 2107 shall be a lien in
8 favor of the Commonwealth upon the property no longer being
9 devoted to [agricultural use, collectible in the manner provided
10 for by law for the collection of delinquent real estate taxes,]
11 the business of agriculture or which does not derive a yearly
12 gross income of at least two thousand dollars (\$2,000), as well
13 as the personal obligation of the owner of the property at the
14 time of the [change of use.] event causing the property to fail
15 to qualify for exemption and all beneficiaries of any trust that
16 is an owner of the property. Liability for the tax shall be
17 joint and several.

18 (3) Every owner of real estate exempt under this subsection
19 shall certify to the department on an annual basis that the land
20 qualifies for this exemption and shall notify the department
21 within thirty days of any transaction or occurrence causing the
22 real estate to fail to qualify for the exemption. Each year the
23 department shall inform all owners of their obligation to
24 provide an annual certification under this subclause. This
25 certification and notification shall be completed in the form
26 and manner as provided by the department.

27 (s.1) A transfer of an agricultural commodity, agricultural
28 conservation easement, agricultural reserve, agricultural use
29 property or a forest reserve, as those terms are defined in
30 section 2122(a), to or for the benefit of lineal descendants or

1 siblings is exempt from inheritance tax, provided the foregoing
2 property is reported on a timely filed inheritance tax return.

3 (t) A qualified family-owned business. The following shall
4 apply:

5 (1) A transfer of a qualified family-owned business interest
6 to [one or more qualified transferees] or for the benefit of
7 members of the same family is exempt from inheritance tax if the
8 qualified family-owned business interest:

9 (i) continues to be owned by [a qualified transferee]
10 members of the same family or a trust whose beneficiaries are
11 comprised solely of members of the same family for a minimum of
12 seven years after the decedent's date of death; and

13 (ii) is reported on a timely filed inheritance tax return.

14 (2) A qualified family-owned business interest that was
15 exempted from inheritance tax under this subsection that is no
16 longer owned by [a qualified transferee] members of the same
17 family or a trust whose beneficiaries are comprised solely of
18 members of the same family at any time within seven years after
19 the decedent's date of death shall be subject to inheritance tax
20 due the Commonwealth under section 2107, in an amount equal to
21 the inheritance tax that would have been paid or payable on the
22 value of the qualified family-owned business interest using the
23 valuation authorized under section 2121 for nonexempt transfers
24 of property. Interest shall accrue from the payment date
25 established under section 2142 at the rate established under
26 section 2143.

27 (2.1) The exemption under this subsection shall not apply to
28 property transferred by the decedent into the qualified family-
29 owned business within one year of the death of the decedent
30 unless the property was transferred for a legitimate business

1 purpose.

2 (3) Inheritance tax due under section 2107 as a result of
3 disqualification under paragraphs (2) or (4), plus interest on
4 the inheritance tax, shall be a lien in favor of the
5 Commonwealth on the real and personal property of the owner of
6 the qualified family-owned business interest at the time of the
7 transaction or occurrence that disqualified the qualified
8 family-owned business interest from the exemption provided under
9 this subsection. The inheritance tax due and interest shall be
10 [collectible in the manner provided for by law for the
11 collection of delinquent taxes and shall be] the personal
12 obligation of the owner of the qualified family-owned business
13 interest at the time of the transaction or occurrence that
14 disqualified the qualified family-owned business interest from
15 the exemption provided under this subsection[.] and all
16 beneficiaries of any trust that is an owner of the qualified
17 family-owned business interest. Liability for the tax shall be
18 joint and several. The lien shall remain until the inheritance
19 tax and accrued interest are paid in full.

20 (4) Each owner of a qualified family-owned business interest
21 exempted from inheritance tax under this subsection shall
22 certify to the department, on an annual basis, for seven years
23 after the decedent's date of death, that the qualified family-
24 owned business interest continues to be owned by [a qualified
25 transferee] members of the same family or a trust whose
26 beneficiaries are comprised solely of members of the same family
27 and shall notify the department within thirty days of any
28 transaction or occurrence causing the qualified family-owned
29 business interest to fail to qualify for the exemption. Each
30 year, the department shall inform all owners of a qualified

1 family-owned business interest exempted from inheritance tax
2 under this subsection of their obligation to provide an annual
3 certification under this paragraph. The certification and
4 notification shall be completed in the form and manner as
5 provided by the department. An owner's failure to comply with
6 the certification or notification requirements shall result in
7 the loss of the exemption, and the qualified family-owned
8 business interest shall be subject to inheritance tax due the
9 Commonwealth under section 2107, in an amount equal to the
10 inheritance tax that would have been paid or payable on the
11 value of the qualified family-owned business interest using the
12 valuation authorized under section 2121 for nonexempt transfers
13 of property. Interest shall accrue from the payment date
14 established in section 2142 at the rate established in section
15 2143.

16 (5) For purposes of this subsection, [the following terms
17 shall have the meanings given to them in this paragraph:

18 "Qualified family-owned business interest." As follows:] the
19 term "qualified family-owned business interest" shall be as
20 follows:

21 (i) an interest as a proprietor in a trade or business
22 carried on as a proprietorship, if the proprietorship has fewer
23 than fifty full-time equivalent employees as of the date of the
24 decedent's death, the proprietorship has a net book value of
25 assets totaling less than five million dollars (\$5,000,000) as
26 of the date of the decedent's death and has been in existence
27 for five years prior to the date of the decedent's death; or

28 (ii) an interest in an entity carrying on a trade or
29 business, if:

30 (A) the entity has fewer than fifty full-time equivalent

1 employees as of the date of the decedent's death;

2 (B) the entity has a net book value of assets totaling less
3 than five million dollars (\$5,000,000) as of the date of the
4 decedent's death;

5 (C) as of the date of the decedent's death, the entity is
6 wholly owned by the decedent [or], by the decedent and members
7 of the [decedent's family that meet the definition of a
8 qualified transferee] same family, by a trust whose
9 beneficiaries are comprised solely of members of the same family
10 or by an entity that is owned solely by members of the same
11 family;

12 (D) the entity is engaged in a trade or business the
13 principal purpose of which is not the management of investments
14 or income-producing assets owned by the entity; and

15 (E) the entity has been in existence for five years prior to
16 the decedent's date of death.

17 ["Qualified transferee." A decedent's:

18 (i) husband or wife;

19 (ii) lineal descendants;

20 (iii) siblings and the sibling's lineal descendants; and

21 (iv) ancestors and the ancestor's siblings.]

22 Section 47. Section 2130 of the act, amended July 9, 2013
23 (P.L.270, No.52), is amended to read:

24 Section 2130. Deductions Not Allowed.--The following are not
25 deductible:

26 (2) Claims of a former spouse, or others, under an agreement
27 between the former spouse and the decedent, insofar as they
28 arise in consideration of a relinquishment or promised
29 relinquishment of marital or support rights.

30 (3) Litigation expenses of beneficiaries.

1 (4) Indebtedness secured by real property or tangible
2 personal property, all of which has its situs outside of this
3 Commonwealth, except to the extent the indebtedness exceeds the
4 value of the property.

5 (5) Expenses, debts, obligations and liabilities incurred in
6 connection with a qualified family-owned business interest
7 exempted from inheritance under section 2111(t) and any property
8 exempted from inheritance tax under section 2111(s) or (s.1).

9 Section 47.1. The act is amended by adding an article to
10 read:

11 ARTICLE XXV

12 TABLE GAME TAXES

13 Section 2501. Definitions.

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

17 "Certificate holder." As defined in 4 Pa.C.S. § 1103
18 (relating to definitions).

19 "Gross table game revenue." As defined in 4 Pa.C.S. § 1103.

20 "Table game." As defined in 4 Pa.C.S. § 1103.

21 Section 2502. Table game taxes.

22 Commencing August 1, 2016, in addition to the tax payable
23 under 4 Pa.C.S. § 13A62(a)(1) (relating to table game taxes),
24 each certificate holder shall report to the Department of
25 Revenue and pay from its daily gross table game revenue an
26 additional tax of 2% of its daily gross table game revenue. The
27 additional tax shall be subject to all provisions of 4 Pa.C.S.
28 Ch. 13A (relating to table games) relating to the payment of
29 taxes by a certificate holder in the same manner as the tax
30 payable under 4 Pa.C.S. § 13A62(a)(1) (relating to table game

1 taxes).

2 Section 2503. Expiration.

3 (a) Expiration.--This article shall expire June 30, 2019.

4 (b) Tax not applicable.--Notwithstanding any law to the
5 contrary, the tax imposed by 4 Pa.C.S. § 13A62(a)(3) (relating
6 to table game taxes) shall not apply for the period from the
7 effective date of this section until after the expiration date
8 in subsection (a).

9 Section 47.2. Section 2703(a) of the act is amended by
10 adding a paragraph to read:

11 Section 2703. Petition procedure.

12 (a) Content of petition.--

13 * * *

14 (2.1) A petition for review of the denial of an amended
15 report under section 406.1 shall state:

16 (i) The tax type and tax period included within the
17 petition.

18 (ii) The reasons why the tax stated in the amended
19 report should be accepted.

20 * * *

21 Section 48. Article XXIX-D heading of the act, added October
22 9, 2009 (P.L.451, No.48), is amended to read:

23 ARTICLE XXIX-D

24 [(RESERVED)]

25 COMPUTER DATA CENTER EQUIPMENT

26 INCENTIVE PROGRAM

27 Section 49. The act is amended by adding sections to read:

28 Section 2901-D. Definitions.

29 The following words and phrases when used in this article
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Computer data center." All or part of a facility that may
3 be composed of one or more businesses, owners or tenants, that
4 is or will be predominantly used to house working servers or
5 similar data storage systems and that may have uninterruptible
6 energy supply or generator backup power, or both, cooling
7 systems, towers and other temperature control infrastructure.

8 "Computer data center equipment." Equipment that is used to
9 outfit, operate or benefit a computer data center and component
10 parts, installations, refreshments, replacements and upgrades to
11 the equipment, whether any of the equipment is affixed to or
12 incorporated into real property, including:

13 (1) All equipment necessary for the transformation,
14 generation, distribution or management of electricity that is
15 required to operate computer servers or similar data storage
16 equipment, including generators, uninterruptible energy
17 supplies, conduit, gaseous fuel piping, cabling, duct banks,
18 switches, switchboards, batteries and testing equipment.

19 (2) All equipment necessary to cool and maintain a
20 controlled environment for the operation of the computer
21 servers or data storage systems and other components of the
22 computer data center, including mechanical equipment,
23 refrigerant piping, gaseous fuel piping, adiabatic and free
24 cooling systems, cooling towers, water softeners, air
25 handling units, indoor direct exchange units, fans, ducting
26 and filters.

27 (3) All water conservation systems, including facilities
28 or mechanisms that are designed to collect, conserve and
29 reuse water.

30 (4) All software, including, but not limited to,

1 enabling software and licensing agreements, computer servers
2 or similar data storage equipment, chassis, networking
3 equipment, switches, racks, cabling, trays and conduit.

4 (5) All monitoring equipment and security systems.

5 (6) Modular data centers and preassembled components of
6 any item described in this definition, including components
7 used in the manufacturing of modular data centers.

8 (7) Other tangible personal property that is essential
9 to the operations of a computer data center.

10 "Department." The Department of Revenue of the Commonwealth.

11 "Facility." One or more parcels of land in this Commonwealth
12 and any structures and personal property contained on the land.

13 "New investment." Construction, expansion or build out of
14 data center space at either a new or an existing computer data
15 center on or after January 1, 2014, and the purchase and
16 installation of computer data center equipment, except for items
17 described under paragraph (4) of the definition of "computer
18 data center equipment."

19 "Owner or operator." Includes a single entity, multiple
20 entities or affiliated entities.

21 "Qualification period." As follows:

22 (1) With respect to the owner or operator of a computer
23 data center certified under this article, a period of time
24 beginning on the date of certification of the computer data
25 center and expiring at the end of the fifteenth full calendar
26 year following the calendar year in which the owner or
27 operator filed an application for certification.

28 (2) With respect to a qualified tenant of the owner or
29 operator of a computer data center certified under this
30 article, a period of time beginning on the date that the

1 qualified tenant enters into an agreement concerning the use
2 or occupancy of the computer data center and expiring at the
3 earlier of the expiration of the term of the agreement or the
4 end of the 10th full calendar year following the calendar
5 year in which the qualified tenant enters into the agreement.

6 "Qualified tenant." An entity that contracts with the owner
7 or operator of a computer data center that is certified pursuant
8 to this article to use or occupy part of the computer data
9 center for at least 100 kilowatts per month for two or more
10 years.

11 "Tax refund." The tax refund provided for under this
12 article.

13 "Tenant." An entity that contracts with the owner or
14 operator of a computer data center to use or occupy part of the
15 computer data center.

16 Section 2902-D. Sales and use tax refund.

17 (a) Application.--Beginning July 1, 2017, an owner or
18 operator or qualified tenant of a computer data center certified
19 under this article may apply for a tax refund of taxes paid
20 under Article II upon the sale at retail or use of computer data
21 center equipment for installation in a computer data center,
22 purchased by:

23 (1) An owner or operator of a computer data center
24 certified under this article.

25 (2) A qualified tenant certified under this article.

26 (b) Applicability.--Taxes paid under Article II during the
27 qualification period shall be eligible for a refund under this
28 article.

29 (c) Exclusions.--The following do not qualify for a tax
30 refund:

1 (1) Computer data center equipment used by the computer
2 data center to:

3 (i) generate electricity for resale purposes to a
4 power utility, except for sales incidental to the primary
5 sale to computer data centers and which qualify under
6 subparagraph (ii); or

7 (ii) generate, provide or sell more than 5% of its
8 electricity outside of the computer data center.

9 (2) (Reserved).

10 Section 2903-D. Application for certification.

11 To be considered for a certification, an owner or operator of
12 a computer data center shall submit to the department an
13 application on a form prescribed by the department that includes
14 the following:

15 (1) The owner's or operator's name, address and
16 telephone number.

17 (2) The address of the site where the facility is or
18 will be located, including, if applicable, information
19 sufficient to identify the specific portion or portions of
20 the facility comprising the computer data center.

21 (3) If the computer data center is to qualify under
22 section 2906-D(1), the following information:

23 (i) The anticipated investment associated with the
24 computer data center for which the certification is being
25 sought.

26 (ii) An affirmation, signed by an authorized
27 executive representing the owner or operator, that the
28 computer data center is expected to satisfy the
29 certification requirements prescribed in section 2906-
30 D(1).

1 (4) If the computer data center is to qualify under
2 section 2906-D(2), an affirmation, signed by an authorized
3 executive representing the owner or operator, that the
4 computer data center has satisfied, or will satisfy, the
5 certification requirements prescribed in section 2906-D(2).

6 (5) The department shall begin accepting applications no
7 later than 90 days after the effective date of this section.

8 Section 2904-D. Review of application.

9 (a) General rule.--Within 60 days after receiving a complete
10 and correct application, the department shall review the
11 application and either issue a written certification that the
12 computer data center qualifies for the certification or provide
13 written reasons for its denial.

14 (b) Deemed approval.--Failure of the department to approve
15 or deny an application within 60 days after the date the owner
16 or operator of a computer data center submits the application to
17 the department constitutes certification of the computer data
18 center, and the department shall issue written certification to
19 the owner or operator within 14 days. The department may not
20 certify any computer data center after December 31, 2029.

21 Section 2905-D. Separation of facilities.

22 (a) Separate certification.--An owner or operator of a
23 computer data center may separate a facility into one or more
24 computer data centers, which may each receive a separate
25 certification, if each computer data center individually meets
26 the requirements prescribed in section 2906-D.

27 (b) Limitation.--A portion of a facility or an article of
28 computer data equipment shall not be deemed to be a part of more
29 than one computer data center.

30 (c) Aggregation.--An owner or operator may aggregate one or

1 more parcels, buildings or condominiums in a facility into a
2 single computer data center if, in the aggregate, the parcels,
3 buildings and condominiums meet the requirements of this
4 article.

5 Section 2906-D. Eligibility requirements.

6 A computer data center must meet one of the following
7 requirements, after taking into account the combined investments
8 made and annual compensation paid by the owner or operator of
9 the computer data center or the qualified tenant:

10 (1) On or before the fourth anniversary of
11 certification, the computer data center creates a minimum
12 investment of:

13 (i) At least \$25,000,000 of new investment if the
14 computer data center is located in a county with a
15 population of 250,000 or fewer individuals; or

16 (ii) At least \$50,000,000 of new investment if the
17 computer data center is located in a county with a
18 population of more than 250,000 individuals.

19 (2) One or more taxpayers operating or occupying a
20 computer data center, in the aggregate, pay annual
21 compensation of at least \$1,000,000 to employees at the
22 certified computer data center site for each year of the
23 certification after the fourth anniversary of certification.

24 Section 2907-D. Notification.

25 (a) Requirements satisfied.--On or before the fourth
26 anniversary of the certification of a computer data center, the
27 owner or operator of a computer data center shall notify the
28 department in writing whether the computer data center for which
29 the certification is requested has satisfied the requirements
30 prescribed in section 2906-D.

1 (b) Records.--Until a computer data center satisfies the
2 requirements prescribed in section 2906-D, the owner, operator
3 and qualified tenants shall maintain detailed records of all
4 investment created by the computer data center, including costs
5 of buildings and computer data center equipment, and all tax
6 refunds directly received by the owner, operator or qualified
7 tenant.

8 Section 2908-D. Revocation of certification.

9 (a) Revocation.--If the department determines that the
10 requirements of section 2906-D have not been satisfied, the
11 department may revoke the certification of a computer data
12 center.

13 (b) Appeal.--The owner or operator of the computer data
14 center may appeal the revocation. Appeals filed under this
15 section shall be governed by Article II.

16 (c) Recapture.--If certification is revoked pursuant to this
17 section, the qualification period of any owner, operator or
18 qualified tenant of the computer data center expires, and the
19 department may recapture from the owner, operator or qualified
20 tenant all or part of the tax refund provided directly to the
21 owner or operator or qualified tenant. The department may give
22 special consideration or allow a temporary exemption from
23 recapture of the tax refund if there is extraordinary hardship
24 due to factors beyond the control of the owner or operator or
25 qualified tenant.

26 Section 2909-D. Guidelines.

27 The department shall publish guidelines and prescribe forms
28 and procedures as necessary for the purposes of this article.

29 Section 2910-D. Confidential information.

30 Proprietary business information contained in the application

1 form described in section 2903-D and the written notice
2 described in section 2907-D, as well as information concerning
3 the identity of a qualified tenant, are confidential and may not
4 be disclosed to the public. The department may disclose the name
5 of a computer data center that has been certified under this
6 article.

7 Section 2911-D. List of tenants.

8 An owner or operator of a computer data center shall provide,
9 to the extent permissible under Federal law, the department with
10 a list of qualified tenants, including the commencement and
11 expiration dates of each qualified tenant's agreement to use or
12 occupy part of the computer data center. The list shall be
13 provided to the department annually, upon request by the
14 department.

15 Section 2912-D. Sale or transfer.

16 Except as provided in section 2908-D, a computer data center
17 retains its certification regardless of a transfer, sale or
18 other disposition, directly or indirectly, of the computer data
19 center.

20 Section 2913-D. Application.

21 (a) General rule.--An owner, operator or qualified tenant
22 may apply for a tax refund under this article on or before July
23 30, 2017, and each July 30 thereafter.

24 (b) Notification.--No later than September 30, 2017, and
25 each September 30 thereafter, the department shall notify each
26 applicant of the amount of tax refund approved by the
27 department.

28 Section 2914-D. Limitations.

29 (a) Total.--The total amount of State tax refunds approved
30 by the department under this article shall not exceed \$5,000,000

1 in any fiscal year.

2 (b) Allocation.--If the total amount of tax refunds approved
3 for all applicants exceeds the limitation on the amount of tax
4 refunds in subsection (a) in a fiscal year, the tax refund to be
5 received by each applicant shall be determined as follows:

6 (1) Divide:

7 (i) the tax refund approved for the applicant; by

8 (ii) the total of all tax refunds approved for all
9 applicants.

10 (2) Multiply:

11 (i) the amount under subsection (a); by

12 (ii) the quotient under paragraph (1).

13 (3) The algebraic form of the calculation under this
14 subsection is:

15 Taxpayer's tax refund = amount allocated for those
16 tax refunds X (tax refund approved for the
17 applicant/total of all tax refunds approved for all
18 applicants).

19 Section 49.1. The act is amended by adding an article to
20 read:

21 ARTICLE XXIX-G

22 TAX AMNESTY PROGRAM FOR FISCAL YEAR 2016-2017

23 Section 2901-G. Definitions.

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

27 "Amnesty period." The time period of 60 consecutive days
28 established by the Governor ending no later than June 30, 2017.

29 "Department." The Department of Revenue of the Commonwealth.

30 "Eligible tax." Any tax administered by the Department of

1 Revenue delinquent as of December 31, 2015. The term includes
2 any interest, penalty or fees on an eligible tax. For an unknown
3 liability, the term shall only include taxes due within five
4 years prior to December 31, 2015. For purposes of taxes
5 collected under the International Fuel Tax Agreement, the term
6 shall apply only to taxes, interest and penalties owed to the
7 Commonwealth, not to other states or Canadian provinces.

8 "Program." The tax amnesty program established under section
9 2902-G as provided for in this article.

10 "Taxpayer." Any person, association, fiduciary, partnership,
11 corporation or other entity required to pay or collect any of
12 the eligible taxes. The term shall not include a taxpayer who,
13 prior to the amnesty period, has received notice that the
14 taxpayer is the subject of a criminal investigation for an
15 alleged violation of any law imposing an eligible tax or who,
16 prior to the amnesty period, has been named as a defendant in a
17 criminal complaint alleging a violation of any law imposing an
18 eligible tax or is a defendant in a pending criminal action for
19 an alleged violation of any law imposing an eligible tax.

20 "Unknown liability." A liability for an eligible tax for
21 which either:

22 (1) no return or report has been filed, no payment has
23 been made and the taxpayer has not been contacted by the
24 department concerning the unfiled returns or reports or
25 unpaid tax; or

26 (2) a return or report has been filed, the tax was
27 underreported and the taxpayer has not been contacted by the
28 department concerning the underreported tax and is not
29 already under audit when the amnesty period begins.

30 Section 2902-G. Establishment of program.

1 (a) General rule.--Except as provided in section 2902-F(c),
2 a tax amnesty program is established and shall be administered
3 by the department.

4 (b) Applicability.--Except as provided in section 2902-F(c),
5 the program shall apply to a taxpayer who is delinquent on
6 payment of a liability for an eligible tax as of December 31,
7 2015, including a liability for returns not filed, liabilities
8 according to records of the department as of December 31, 2015,
9 liabilities not reported, underreported or not established, but
10 delinquent as of December 31, 2015.

11 (c) Future amnesty program participation.--A taxpayer who
12 participates in the program shall not be eligible to participate
13 in a future tax amnesty program.

14 (d) Deferred payment plan agreement.--Existing deferred
15 payment plan agreements between a taxpayer and the department
16 where the agreement applies to a tax liability for which amnesty
17 is sought by the taxpayer for amounts remaining on the tax
18 liability, the taxpayer, as a condition of receiving amnesty,
19 shall pay the liability, notwithstanding terms of the agreement
20 to the contrary, in full during the amnesty period.

21 Section 2903-G. Required payment.

22 (a) Taxpayer requirements.--Subject to section 2904-G, all
23 taxpayers who participate in the program shall comply with all
24 of the following:

25 (1) During the amnesty period, file a tax amnesty return
26 in such form and containing such information as the
27 department shall require. A tax amnesty return shall be
28 considered to be timely filed if it is postmarked during the
29 amnesty period or timely electronically or otherwise filed.

30 (2) During the amnesty period, make payment of all taxes

1 and one-half of the interest due to the Commonwealth in
2 accordance with the tax amnesty return that is filed. The
3 taxpayer shall not be required to pay any penalty or fees
4 applicable to an eligible tax.

5 (3) File complete tax returns for all required years for
6 which the taxpayer previously has not filed a tax return and
7 file complete amended returns for all required years for
8 which the taxpayer underreported eligible tax liability.

9 (b) Prohibitions.--

10 (1) The department may not collect the penalties,
11 interest or fees waived under subsection (a)(2). Except as
12 otherwise provided in this article, the department shall not
13 pursue administrative or judicial proceeding against a
14 taxpayer with respect to an eligible tax that is disclosed on
15 a tax amnesty return.

16 (2) A taxpayer with unknown liabilities reported and
17 paid under the program and who complies with all other
18 requirements of this article shall not be liable for any
19 taxes of the same type due prior to January 1, 2011. A
20 taxpayer shall not be owed a refund under this article.

21 Section 2904-G. Amnesty contingent on continued compliance.

22 Notwithstanding any other provision of this article, the
23 department may assess and collect from a taxpayer all penalties
24 and interest waived through the program if, within two years
25 after the end of the program, either of the following occurs:

26 (1) the taxpayer granted amnesty under this article
27 becomes delinquent for three consecutive periods in payment
28 of taxes due or filing of returns required on a semimonthly,
29 monthly, quarterly or other basis and the taxpayer has not
30 contested the tax liability through a timely valid

1 administrative or judicial appeal; or

2 (2) the taxpayer granted amnesty under this article
3 becomes delinquent and is eight or more months late in
4 payment of taxes due or filing of returns on an annual basis
5 and the taxpayer has not contested the liability through a
6 timely valid administrative or judicial appeal.

7 Section 2905-G. Limitation of deficiency assessment.

8 If, subsequent to the amnesty period, the department issues a
9 deficiency assessment with respect to a tax amnesty return, the
10 department may impose penalties and pursue a criminal action
11 only with respect to the difference between the amount shown on
12 that tax amnesty return and the current amount of tax.

13 Section 2906-G. Overpayment of tax.

14 Notwithstanding any other provisions of this article or any
15 other act, if an overpayment of eligible tax is refunded or
16 credited within 180 days after the tax amnesty return is filed
17 or the eligible tax is paid, whichever is later, no interest
18 shall be allowed on the overpayment.

19 Section 2907-G. Previously paid interest and penalties.

20 No refund or credit shall be allowed for any interest or
21 penalty on eligible taxes paid to the department prior to the
22 amnesty period.

23 Section 2908-G. Proceedings relating to tax amnesty return
24 barred.

25 Participation in the program shall be conditioned upon the
26 taxpayer's agreement that the right to protest or pursue an
27 administrative or judicial proceeding with regard to tax amnesty
28 returns filed under the program or to claim any refund of money
29 paid under the program is barred.

30 Section 2909-G. Undisclosed liabilities.

1 Nothing in this article shall be construed to prohibit the
2 department from instituting civil or criminal proceedings
3 against a taxpayer with respect to an amount of tax that is not
4 disclosed on the tax amnesty return or an amount disclosed on
5 the amnesty return that is not paid.

6 Section 2910-G. Duties of department.

7 (a) Guidelines.--The department shall develop guidelines to
8 implement the provisions of this article. The guidelines shall
9 be published in the Pennsylvania Bulletin within 60 days of the
10 effective date of this section and shall contain, but not be
11 limited to, the following information:

12 (1) An explanation of the program and the requirements
13 for eligibility for the program.

14 (2) The dates during which a tax amnesty return may be
15 filed.

16 (3) A specimen copy of the tax amnesty return.

17 (4) The amnesty revenue estimates required under section
18 2912-G(b).

19 (b) Publicity.--The department shall publicize the program
20 to maximize public awareness of and participation in the
21 program. The department shall coordinate to the highest degree
22 possible its publicity efforts and other actions taken to
23 implement this article.

24 (c) Reports.--The department shall issue reports to the
25 General Assembly detailing program implementation. The reports
26 shall contain the following information:

27 (1) Within 30 days after the end of the amnesty period:

28 (i) A detailed breakdown of the department's
29 administrative costs in implementing the program.

30 (ii) The total dollar amount of revenue collected by

1 the program.

2 (2) Within 180 days after the end of the amnesty period:

3 (i) The number of tax amnesty returns filed and a
4 breakdown of the number and dollar amount of revenue
5 raised for each tax by calendar year during which the tax
6 period ended. In addition, the gross revenues shall be
7 broken down in the following categories:

8 (A) Amounts represented by assessments
9 receivable established by the department on or before
10 the first day of the amnesty period.

11 (B) All other amounts.

12 (ii) The total dollar amount of penalties and
13 interest waived under the program.

14 (iii) The demographic characteristics of tax amnesty
15 participants, including North American Industry
16 Classification System codes of participants, type of
17 taxpayer, consisting of individual, partnership,
18 corporation or other entity, size of tax liability and
19 geographical location.

20 (d) Notification.--The department shall notify in writing
21 all known tax delinquents at the taxpayers' last known valid
22 addresses of the existence of the program. The sole purpose of
23 the letter sent by the department to taxpayers shall be
24 notification of the program.

25 Section 2911-G. Method of payment.

26 All tax payments under the program shall be made by certified
27 check, money order, electronic transfer, credit card or other
28 financial instrument acceptable to the department.

29 Section 2912-G. Use of revenue.

30 (a) Restricted revenue account.--Except as set forth in

1 subsection (c), all revenue generated by this article shall be
2 deposited into a restricted revenue account in the General Fund.
3 Revenue from the restricted revenue account shall be distributed
4 as follows:

5 (1) All money from General Fund sources shall be
6 deposited in the General Fund no later than June 30, 2017,
7 less repayment of any costs for administration of the program
8 to the department.

9 (2) All revenue from Motor License Fund sources shall be
10 deposited in the Motor License Fund no later than June 30,
11 2017.

12 (3) All revenue from Liquid Fuels Tax Fund sources shall
13 be deposited in the Liquid Fuels Tax Fund no later than June
14 30, 2017.

15 (b) Revenue estimates.--

16 (1) The department shall submit, for publication in the
17 Pennsylvania Bulletin:

18 (i) a separate amnesty revenue estimate for revenue
19 generated under this article from the following sources:

20 (A) The General Fund.

21 (B) The Motor License Fund.

22 (C) The Liquid Fuels Tax Fund.

23 (ii) The methodology used to develop the estimate.

24 (2) All amnesty revenue estimates shall be submitted for
25 publication pursuant to section 2910-G(a)(4).

26 Section 2913-G. Additional penalty.

27 (a) General rule.--Subject to the limitations provided under
28 subsection (b), a penalty of 5% of the unpaid tax liability and
29 penalties and interest shall be levied against a taxpayer
30 subject to an eligible tax if the taxpayer failed to remit an

1 eligible tax due or had an unreported or underreported liability
2 for an eligible tax on or after the first day following the end
3 of the amnesty period.

4 (b) Nonapplicability.--The penalty provided in this section
5 shall not apply to a taxpayer who:

6 (1) pays the liability in full or entered into a duly
7 approved and executed deferred payment plan on or before the
8 last day of the amnesty period; or

9 (2) has filed a timely and valid administrative or
10 judicial appeal contesting the liability on or before the
11 last day of the amnesty period.

12 (c) Penalty in addition.--The penalty provided by this
13 section shall be in addition to all other penalties provided by
14 law.

15 Section 2914-G. Construction.

16 Except as expressly provided in this article, this article
17 shall not:

18 (1) be construed to relieve a person, corporation or
19 other entity from the filing of a return or from a tax,
20 penalty or interest imposed by the provisions of any law;

21 (2) affect or terminate a petition, investigation,
22 prosecution, legal or otherwise, or other proceeding pending
23 under the provisions of any such law; or

24 (3) prevent the commencement or further prosecution of a
25 proceeding by the proper authorities of the Commonwealth for
26 violation of any such law or for the assessment, settlement,
27 collection or recovery of tax, penalty or interest due to the
28 Commonwealth under any such law.

29 Section 2915-G. Suspension of inconsistent acts.

30 All acts or parts of acts inconsistent with the provisions of

1 this article are suspended to the extent necessary to carry out
2 the provisions of this article.

3 Section 50. Repeals are as follows:

4 (1) The General Assembly declares that the repeal under
5 paragraph (2) is necessary to effectuate the amendment of the
6 following provisions of the act:

7 (i) Section 301(k) and (w).

8 (ii) Section 303(a) (7).

9 (iii) Section 312.

10 (iv) Section 316.

11 (v) Section 317.

12 (vi) Section 318.

13 (vii) Section 319.

14 (viii) Section 320.

15 (ix) Section 321.

16 (x) Section 325(a).

17 (xi) Section 352.2(a).

18 (2) Section 312 of the act of August 26, 1971 (P.L.351,
19 No.91), known as the State Lottery Law, is repealed insofar
20 as it is inconsistent with this act.

21 (3) The General Assembly declares that the repeal under
22 paragraph (4) is necessary to effectuate the addition of
23 Article XVIII-G of the act.

24 (4) The act of October 25, 2012 (P.L.1664, No.206),
25 known as the Promoting Employment Across Pennsylvania Act, is
26 repealed.

27 (5) The General Assembly declares that the repeal under
28 paragraph (6) is necessary to effectuate the addition of
29 Article XIX-F of the act.

30 (6) 12 Pa.C.S. Ch. 37 is repealed.

1 (7) The General Assembly declares that the repeal under
2 paragraph (8) is necessary to effectuate the addition of
3 section 1296(c) of the act.

4 (8) 53 Pa.C.S. § 8722(k) is repealed.

5 Section 51. This act shall apply as follows:

6 (1) The amendment of section 227 of the act shall apply
7 to returns due on or after August 1, 2016.

8 (1.1) The amendment of sections 2102 and 2111(s) and
9 (s.1) of the act shall apply to inheritance tax imposed as to
10 a decedent whose date of death is after December 31, 2012.

11 (1.2) The amendment of section 1707-B of the act shall
12 apply retroactively to January 1, 2016.

13 (2) The amendment of section 2111(t) of the act shall
14 apply to inheritance tax imposed as to a decedent whose date
15 of death is after June 30, 2013.

16 (3) The following provisions shall apply retroactively
17 to January 1, 2014:

18 (i) The amendment of section 303(a.8) of the act.

19 (ii) The amendment or addition of section 701.1(b)
20 and (b.1) of the act.

21 (iii) The amendment of section 701.4(3)(xiii) of the
22 act.

23 (3.1) The amendment of section 403(a) of the act shall
24 apply to taxable years beginning after December 31, 2015.

25 (4) The amendment of sections 301(k)(5) and 303(a)(7) of
26 the act concerning lottery winnings shall apply retroactively
27 to January 1, 2016.

28 (5) The following provisions shall apply to taxable
29 years beginning after December 31, 2016:

30 (i) (Reserved).

1 (ii) The amendment of the definitions of "doing
2 business in this Commonwealth" and "receipts" in section
3 701.5 of the act.

4 (iii) The amendment of sections 1702-D (renumbered
5 as section 1711-D of the act) and 1703-D (renumbered as
6 section 1712-D of the act) of the act.

7 (6) The addition of Subarticles C and D of Article XVII-
8 D of the act shall apply to fiscal years beginning after June
9 30, 2016.

10 (7) The amendment or addition of sections 1707-D(a)
11 (renumbered as section 1716-D of the act) and 1716.1-D of the
12 act shall apply to fiscal years beginning after June 30,
13 2017.

14 (8) The addition of sections 406.1 and 2703(a)(2.1) of
15 the act shall apply to amended reports filed after December
16 31, 2016.

17 (9) The amendment of section 1101(b.1), (c), (c.1), (e)
18 and (j) of the act shall apply to gross receipts received
19 after December 31, 2016.

20 (10) The addition of section 204(70) of the act shall
21 apply to the sale at retail or use of services occurring
22 after June 30, 2016.

23 (11) The amendment or addition of the following
24 provisions of the act shall apply to transfers at least 60
25 days following the effective date of this section:

26 (i) The definitions of "conservancy" and "veterans'
27 organization" in section 1101-C.

28 (ii) Section 1102-C.2.

29 (iii) Section 1102-C.3(18) and (24).

30 Section 52. Notwithstanding the provisions of the act of

1 August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the
2 Sterling Act, and the act of December 31, 1965 (P.L.1257,
3 No.511), known as The Local Tax Enabling Act, the amendment or
4 addition of the following provisions of the act shall not
5 preempt any tax imposed by a unit of local government as of the
6 effective date of this section unless specifically provided for
7 in this act:

8 (1) Sections 201(k), (m) and (o), 204(13) and (70), 227
9 and 268(b) and (c).

10 (2) Article XII-A.

11 Section 53. The following shall apply:

12 (1) The inclusion of roll-your-own tobacco in the
13 addition of Article XII-A of the act requires the amendment
14 of the definition of "units sold" in section 3 of the act of
15 June 22, 2000 (P.L.394, No.54), known as the Tobacco
16 Settlement Agreement Act, and in section 102 of the act of
17 December 30, 2003 (P.L.441, No.64), known as the Tobacco
18 Product Manufacturer Directory Act.

19 (2) The Office of Attorney General shall attempt to
20 obtain the consent of the participating manufacturers under
21 the Master Settlement Agreement to the amendments specified
22 under paragraph (1). For the purposes of this paragraph, the
23 term "Master Settlement Agreement" shall mean the settlement
24 agreement and related documents entered into on November 23,
25 1998, by the Commonwealth and leading United States tobacco
26 product manufacturers and approved by the court in
27 Commonwealth v. Philip Morris, April Term, 1997, No.2443
28 (C.P. Philadelphia County), on January 13, 1999.

29 (3) If the consents under paragraph (2) are obtained,
30 the Office of Attorney General shall:

1 (i) provide notice to the Secretary of Revenue; and
2 (ii) submit for publication in the Pennsylvania
3 Bulletin a notice of the consent.

4 (4) If the consents under paragraph (2) are not
5 obtained, the Office of Attorney General shall:

6 (i) notify the Secretary of Revenue; and
7 (ii) submit for publication in the Pennsylvania
8 Bulletin a notice of the refusal.

9 (5) The following provisions shall take effect 60 days
10 after the Office of Attorney General publishes the notice of
11 the consents under paragraph (3)(ii):

12 (i) The amendment of section 1215(g) of the act.

13 (ii) The addition of the following:

14 (A) The definition of "roll-your-own tobacco" in
15 section 1201-A of the act.

16 (B) Paragraph (2) of the definition of "tobacco
17 products" in section 1201-A of the act.

18 (C) Section 1203-A(a)(2) of the act.

19 (D) Section 1216-A of the act.

20 Section 53.1. The addition of section 204(70) of the act may
21 not be used by the Department of Revenue or any party to an
22 audit, appeal or proceeding before the Department of Revenue to
23 determine the applicability of the tax imposed under section 202
24 prior to the effective date of section 204(70).

25 Section 54. This act shall take effect as follows:

26 (1) The following provisions shall take effect in 30
27 days:

28 (i) The addition of the definitions of "master list"
29 and "operating organization" in section 1902-B of the
30 act.

1 (ii) The amendment or addition of section 1904-
2 B(a.1), (a.3), (b) and (h) of the act.

3 (iii) The addition of section 1904.1-B of the act.

4 (iv) The addition of section 1904.2-B of the act.

5 (v) The addition of section 1909-B of the act.

6 (2) The following provisions shall take effect in 60
7 days:

8 (i) The addition of section 204(70) of the act.

9 (ii) The addition of section 303(a.9) of the act.

10 (iii) The addition of Article XIX-E of the act.

11 (3) The following provisions shall take effect August 1,
12 2016:

13 (i) The amendment of section 201(m) of the act.

14 (ii) The amendment of sections 1206, 1206.1 and 1216
15 of the act.

16 (iii) The addition of section 2503 of the act.

17 (4) Except as set forth in section 53(5) of this act,
18 the addition of Article XII-A of the act shall take effect
19 October 1, 2016.

20 (5) Section 50(4) of this act shall take effect December
21 1, 2016.

22 (6) The amendment or addition of section 1101(b.1), (c),
23 (c.1), (e) and (j) of the act shall take effect January 1,
24 2017.

25 (7) The amendment of section 201(k)(8) and (o)(4)(B) of
26 the act shall take effect July 1, 2017.

27 (8) The remainder of this act shall take effect
28 immediately.