No. 2016-84

AN ACT

HB 1198

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," as follows:

In sales and use tax:

further providing for definitions, for exclusions from tax, for discount and for crimes.

In personal income tax:

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

providing for contributions for tuition account programs; and

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

In corporate net income tax:

further providing for reports and payment of tax;

providing for amended reports; and

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

In bank and trust company shares tax:

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

In gross receipts tax:

further providing for imposition of tax.

In realty transfer tax:

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

In cigarette tax:

further providing for incidence and rate of tax, for floor tax, for stamp to evidence the tax, for commissions on sales and for disposition of certain funds.

Imposing a tobacco products tax.

In research and development tax credit:

further providing for time limitations.

In film production tax credit:

making editorial changes;

further providing for scope of article, definitions and for limitations;

providing for reissuance of film production tax credits, for concert rehearsal and tour and for video game production.

Establishing the coal refuse energy and reclamation tax credit.

Establishing the waterfront development tax credit.

In tax credit for new jobs:

further providing for definitions and for tax credits.

In city revitalization and improvement zones:

further providing for definitions and for establishment of contracting authority;

providing for contracting authority duties;

further providing for approval, for functions of contracting authorities, for qualified businesses, for funds, for reports, for calculation of baseline, for certification, for transfers, for restrictions, for transfer of property, for Commonwealth pledges and for guidelines; and

providing for review.

Establishing the Manufacturing and Investment Tax Credit.

In neighborhood assistance tax credit:

further providing for definitions, for tax credit and for grant of tax credit.

In neighborhood improvement zones:

further providing for definitions and for Neighborhood Improvement Zone Funds; and

providing for taxes, for property assessment and for exceptions.

In Keystone Special Development Zone Program:

further providing for Keystone Special Development Zone tax credit.

Providing for keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones.

Providing for mixed-use development tax credit, the Mixed-use Development Program and Mixed-use Development Program Fund.

Providing for Keystone Innovation Zones.

In malt beverage tax:

further providing for limited tax credits.

In inheritance tax:

further providing for definitions, for transfers not subject to tax and for deductions not allowed.

Providing for table game taxes.

In procedure and administration:

further providing for petition procedure.

Establishing the computer data center equipment incentive program.

Providing for a tax amnesty program.

Making related repeals.

Further providing for preemption of local government tax.

Directing the Office of Attorney General to attempt to obtain the consent of participating manufacturers under the Master Settlement Agreement for amendments.

Providing for applicability for imposed taxes.

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

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

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

* * *

(k) "Sale at retail."

* * *

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

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

(A) The manufacture of tangible personal property.

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

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

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

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

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

The exclusions provided in paragraphs (A), (B), (C) and (D) shall not apply to any vehicle required to be registered under The Vehicle Code, except those vehicles used directly by a public utility engaged in business as a common carrier; to maintenance facilities; or to materials, supplies or equipment to be used or consumed in the construction, reconstruction, remodeling, repair or maintenance of real estate other than directly used machinery, equipment, parts or foundations therefor that may be affixed to such real estate.

The exclusions provided in paragraphs (A), (B), (C) and (D) shall not apply to tangible personal property or services to be used or consumed in managerial sales or other nonoperational activities, nor to the purchase or use of tangible personal property or services by any person other than the person

directly using the same in the operations described in paragraphs (A), (B), (C) and (D) herein.

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

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

* * *

(m) "Tangible personal property."

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

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

(i) video;

(ii) photographs;

(iii) books;

(iv) any other otherwise taxable printed matter;

(v) applications, commonly known as apps;

(vi) games;

(vii) music;

(viii) any other audio, including satellite radio service;

(ix) canned software, notwithstanding the function performed; or

(x) any other otherwise taxable tangible personal property electronically or digitally delivered, streamed or accessed.

* * *

(o) "Use."

* * *

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

* * *

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

(i) The manufacture of tangible personal property.

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

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

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

(iii) The producing, delivering or rendering of a public utility service, or in constructing, reconstructing, remodeling, repairing or maintaining the

facilities which are directly used in producing, delivering or rendering such service.

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

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

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

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

* * *

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

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

* * *

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

* * *

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

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

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

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

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

(2) as follows:

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

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

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

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

Section 268. Crimes.—* * *

(b) Other Crimes. **[(1)]** Except as otherwise provided by subsection (a) of this section, any person who advertises or holds out or states to the public or to any purchaser or user, directly or indirectly, that the tax or any part thereof imposed by this article will be absorbed by such person, or that it will not be added to the purchase price of the tangible personal property or services described in subclauses (2), (3), (4) and (11) through (18) of clause (k) of section 201 of this article sold or, if added, that the tax or any part thereof will be refunded, other than when such person refunds the purchase price because of such property being returned to the vendor, and any person selling or leasing tangible personal property or said services the sale or use of which by the purchaser is subject to tax hereunder, who shall wilfully fail to collect the tax from the purchaser and timely remit the same to the department, and any person who shall wilfully fail or neglect to timely file any return or report required by this article or any taxpayer who shall refuse to timely pay any tax, penalty or interest imposed or provided for by this article, or who shall wilfully fail to preserve his books, papers and records as directed by the department, or any person who shall refuse to permit the department or any of its authorized agents to examine his books, records or papers, or who shall knowingly make any incomplete, false or fraudulent return or report, or who shall do, or attempt to do, anything whatever to prevent the full disclosure of the amount or character of taxable sales purchases or use made by himself or any other person, or shall provide any person with a false statement as to the payment of tax with respect to particular tangible personal property or said services, or shall make, utter or issue a false or fraudulent exemption certificate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars ($1000) and costs of prosecution, or undergo imprisonment not exceeding one year, or both: Provided, however,

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

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

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

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

(ii) If a person is guilty of an offense under this paragraph and the person sold, installed, transferred or possessed not more than three automated sales suppression devices or zappers or phantomware, the person commits an offense punishable by a fine of not more than five thousand dollars ($5,000).

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

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

(3) For purposes of this subsection:

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

"Electronic cash register" means a device that keeps a register or supporting document through the means of an electronic device or computer system designed to record transaction data for the purpose of

computing, compiling or processing retail sales transaction data in whatever manner.

"Phantomware" means a hidden programming option, which is either preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate a transaction record that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

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

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

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

Section 5. (Reserved).

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

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

* * *

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

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

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

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

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

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

Provided, however, That "income from sources within this Commonwealth" for a nonresident individual, estate or trust shall not include any items of income enumerated above received or acquired from an investment company registered with the Federal Securities and Exchange Commission under the Investment Company Act of 1940.

* * *

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

* * *

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

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

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

* * *

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

* * *

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

(a.9) The provisions of section 1033 of the Internal Revenue Code of 1986 (26 U.S.C. § 1033), as amended, shall be applicable.

* * *

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

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

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

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

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

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

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

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

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

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

Section 316. Requirement of Withholding Tax.—***(a)*** Every employer maintaining an office or transacting business within this Commonwealth and making payment of compensation (i) to a resident individual, or (ii) to a nonresident individual taxpayer performing services on behalf of such employer within this Commonwealth, shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employe's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due for such year with respect to such compensation. The method of determining the amount to be withheld shall be prescribed by regulations of the department.

(b) Whenever the Pennsylvania State Lottery or a person making a Pennsylvania State Lottery prize payment in the form of an annuity is required to withhold Federal income tax under section 3402 of the Internal Revenue Code of 1986, as amended (Public Law 99-514, 26 U.S.C. § 1 et seq.), or backup withholding under section 3406 of the Internal Revenue Code of 1986, as amended, from a gambling or lottery prize payment awarded by the Pennsylvania State Lottery that is taxable under this article, the Pennsylvania State Lottery or the person making the

annuity payment shall deduct and withhold from the prize payment an amount equal to the amount of the prize payment subject to withholding under section 3402 or 3406 of the Internal Revenue Code of 1986 multiplied by the tax rate in effect under this article at the time the prize payment is made.

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

Section 317. Information Statement.—***(a)*** Every employer required to deduct and withhold tax under this article shall furnish to each such employe to whom the employer has paid compensation during the calendar year a written statement in such manner and in such form as may be prescribed by the department showing the amount of compensation paid by the employer to the employe, the amount deducted and withheld as tax, pursuant to this article, and such other information as the department shall prescribe. Each statement required by this section for a calendar year shall be furnished to the employe on or before January 31 of the year succeeding such calendar year. If the employe's employment is terminated before the close of such calendar year, the employer, at his option, shall furnish the statement to the employe at any time after the termination but no later than January 31 of the year succeeding such calendar year. However, if an employe whose employment is terminated before the close of such calendar year requests the employer in writing to furnish him the statement at an earlier time, and, if there is no reasonable expectation on the part of both employer and employe of further employment during the calendar year, then the employer shall furnish the statement to the employe on or before the later of the 30th day after the day of the request or the 30th day after the day on which the last payment of wages is made.

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

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

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

(b) Every person required to deduct and withhold tax under section 316(b) shall file a withholding tax return at the same time the person is required to file its annual return of withheld Federal income tax (IRS Form 945) from nonpayroll payments. The return shall be filed with the department.

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

Section 319. Payment of Taxes Withheld.—***(a)*** Every employer withholding tax under this article shall pay over to the department or to a

depository designated by it the tax required to be deducted and withheld under this article.

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

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

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

(4) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be twenty thousand dollars ($20,000) or more, such employer shall pay the tax on the Wednesday after payday if the payday falls on a Wednesday, Thursday or Friday and on the Friday after payday if the payday falls on a Saturday, Sunday, Monday or Tuesday.

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

* * *

Section 15.1. (Reserved).

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

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

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

(ii) for taxable years beginning after December 31, 2015, on or before thirty days after the return to the Federal Government is due, or would be

due were it to be required of such corporation, subject in all other respects to the provisions of this article.

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

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

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

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

* * *

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

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

(2) A taxpayer may file an amended report if a petition raising other issues is pending at the administrative or judicial appeal level.

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

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

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

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

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

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

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

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

(1) The calculation of the amended tax liability.

(2) Revised Pennsylvania supporting schedules, if applicable.

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

(4) Other information that the department may request to support the calculation of the amended tax liability.

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

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

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

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

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

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

(ii) an amended report is filed instead of a petition for reassessment; or

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

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

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

Section 408. Enforcement; Rules and Regulations; Inquisitorial Powers of the Department.—* * *

(b) The department, or any agent authorized in writing by it, is hereby authorized to examine the books, papers, and records, and to investigate the character of the business of any corporation in order to verify the accuracy of any report made, or if no report was made by such corporation, to ascertain and assess the tax imposed by this article. Every such corporation is hereby directed and required to give to the department, or its duly authorized agent,

the means, facilities, and opportunity for such examinations and investigations, as are hereby provided and authorized. Any information gained by the department, as a result of any returns, investigations, or verifications required to be made by this article, shall be confidential, except for official purposes, and any person divulging such information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) and costs of prosecution, or to undergo imprisonment for not more than six months, or both. Nothing in this section shall preclude the department from providing public information, as defined in section **[403(a)(3)]** ***403(a)(2)(iii)***, to other government units. Any identification number provided by the department to another governmental unit for governmental purposes shall continue to be confidential information.

* * *

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

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

(b) It shall be the duty of the Department of Revenue to assess such shares for the calendar years beginning January 1, 1971 through January 1, 1983, at the rate of fifteen mills and for the calendar years beginning January 1, 1984 through January 1, 1988, at the rate of one and seventy-five one thousandths per cent and for the calendar year beginning January 1, 1989, at the rate of 10.77 per cent and for the calendar years beginning January 1, 1990, through January 1, 2013, at the rate of 1.25 per cent and for the calendar **[year]** ***years*** beginning January 1, 2014**[, and each calendar year thereafter at the rate of 0.89 per cent]** ***through January 1, 2016, at the rate of 0.89 per cent and for the calendar year beginning January 1, 2017, and each calendar year thereafter at the rate of 0.95 per cent*** upon each dollar of taxable amount thereof, the taxable amount of each share of stock to be ascertained and fixed pursuant to section 701.1, and dividing this amount by the number of shares.

(c) It shall be the duty of every institution doing business in this Commonwealth, at the time of making every report required by this section, to compute the tax and to pay the amount of said tax to the State Treasurer, through the Department of Revenue either from its general fund, or from the amount of said tax collected from its shareholders. Provided, That in case any institution shall collect, annually, from the shareholders thereof said tax, according to the provisions of this article, that have been subscribed for or issued, and pay the same into the State Treasury, through the Department of Revenue, the shares, and so much of the capital and profits of such institution as shall not be invested in real estate, shall be exempt from local taxation under the laws of this Commonwealth; and such institution shall not be required to make any report to the local assessor or county commissioners

of its personal property owned by it in its own right for purposes of taxation and shall not be required to pay any tax thereon.

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

(2) If an institution does not file the Reports of Condition, book values shall be determined by generally accepted accounting principles as of the end of the preceding calendar year.

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

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

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

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

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

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

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

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

(c) For purposes of this section:

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

(2) if there is a combination of two or more institutions into one, the book values and deductions for United States obligations from the Reports of Condition of the constituent institutions shall be combined. For purposes of this section, a combination shall include any acquisition required to be accounted for by using the purchase method in accordance with generally accepted accounting principles or a statutory merger or consolidation.

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

* * *

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

* * *

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

(A) Interest, dividends, net gains equal to zero or above, and other income from investment assets and activities and from trading assets and activities shall be included in the receipts factor. Investment assets and activities and trading assets and activities shall include investment securities, trading account assets, Federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts and notional principal contracts such as swaps, equities and foreign currency transactions. For the investment and trading assets and activities under subclauses (I) and (II), the receipts factor shall include the amounts under subclauses (I) and (II). The following shall apply:

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

(II) The receipts factor shall include the amount by which interest, dividends, gains and other income from ***investment and*** trading assets and activities, including assets and activities in the matched book, in the arbitrage book and foreign currency transactions, exceed amounts paid in

lieu of interest, amounts paid in lieu of dividends and losses from the assets and activities.

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

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

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

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

(D) The following shall apply:

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

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

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

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

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

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

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

* * *

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

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

* * *

"Doing business in this Commonwealth." As follows:

(1) An institution is engaged in doing business in this Commonwealth and is subject to the tax imposed under this article if it satisfies any of the following requirements **[and generates gross receipts apportioned to this Commonwealth under section 701.4 in excess of $100,000]**:

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

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

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

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

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

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

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

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

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

(2) The term shall not include:

(i) The use by the institution of a professional performing a service on behalf of the institution in this Commonwealth if the services are not significantly associated with the institution's ability to establish and maintain a market in this Commonwealth.

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

* * *

"Receipts." **[As follows:**

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

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

* * *

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

Section 1101. Imposition of Tax.—* * *

[(b.1) Managed Care Organizations.—Every managed care organization now or hereafter incorporated or organized by or under any law of the Commonwealth or a political subdivision thereof, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government and doing business in this Commonwealth that is a party to a Medicaid managed care contract with the Department of Public Welfare shall pay to the State Treasurer, through the Department of Revenue, a tax of 59 mills upon each dollar of the gross receipts received from payments pursuant to a Medicaid managed care contract with the Department of Public Welfare through its Medical Assistance Program under Subchapter XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.). This subsection shall also apply to a Medicaid managed care organization, as defined in section 1903(m)(1)(A) of the Social Security Act (42 U.S.C. § 1396b(m)(1)(A)); to a county Medicaid managed care organization; and to a permitted assignee of a Medicaid managed care contract. This subsection shall not apply to an assignor of a Medicaid managed care contract. The revenue collected under this subsection shall be placed in a restricted receipts account in the General Fund and is appropriated as an augmentation to the capitation appropriation of the Department of Public Welfare. If the Centers for Medicare and Medicaid Services of the Department of Health and Human Services issues a written determination of a deferral, disallowance or disapproval of Federal financial participation on the grounds that the tax imposed under this subsection constitutes an impermissible health care-related tax under Subchapter XIX of the Social Security Act, the Secretary of Public Welfare shall notify the Secretary of Revenue of that determination. If notification is made under this paragraph, the tax under this subsection shall cease to be imposed after the last day of the month in which notification is made.]

(c) Payment of Tax; Reports.—The said taxes imposed under subsections (a)**[, (b) and (b.1)]** ***and (b)*** shall be paid within the time prescribed by law,

and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said company, copartnership, limited partnership, association, joint-stock association or corporation, or person or persons, to transmit to the Department of Revenue on or before March 15 of each year an annual report, and under oath or affirmation, of the amount of gross receipts of the said companies, copartnerships, corporations, associations, joint-stock associations, limited partnerships, person or persons, derived from all sources, and of gross receipts from business done wholly within this State and in the case of electric energy producers that transmit energy to other states referred to in clause (2) of subsection (b), a compilation of the relevant information regarding operating and maintenance expenses and depreciation, during the period of twelve months immediately preceding January 1 of each year.

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

(e) Time to File Reports.—The time for filing annual reports may be extended, estimated assessments may be made by the Department of Revenue if reports are not filed, and the penalties for failing to file reports and pay the taxes imposed under subsection (a)**[, (b) and (b.1)]** ***and (b)*** shall be as prescribed by the laws defining the powers and duties of the Department of Revenue. In any case where the works of any corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons are operated by another corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons, the taxes imposed under subsections (a)**[, (b) and (b.1)]** ***and (b)*** shall be apportioned between the corporations, companies, copartnerships, associations, joint-stock associations, limited partnerships, person or persons in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the Commonwealth shall first look to the corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons operating the works, and upon payment by the said company, corporation, copartnership, association, **[joint-stick]** ***joint-stock*** association, limited partnership, person or persons of a tax upon the receipts, as herein provided, derived from the operation thereof, no other corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons shall be held liable for any tax imposed under subsections (a)**[, (b) and (b.1)]** ***and (b)*** upon the proportion of said receipts received by said corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons for the use of said works.

* * *

(j) Schedule for Estimated Payments.—

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

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

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

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

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

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

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

* * *

Section 16.2. (Reserved).

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

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

* * *

"Conservancy." A corporation or association that possesses a tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open-space opportunities.

* * *

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

* * *

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

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

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

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

* * *

(18) ***Any of the following:***

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

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

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

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

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

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

* * *

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

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

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

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

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

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

(3) After January 3, 2010, a retailer that possesses little cigars on which the tax imposed by this article has not been paid shall pay a tax at the rate of eight cents per little cigar. The tax shall be paid and reported

on a form prescribed by the department within ninety days of the effective date of this paragraph.]

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

* * *

Section 1215. Stamp to Evidence the Tax.—* * *

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

* * *

Section 1216. Commissions on Sales.—A cigarette stamping agent shall be entitled to a commission for the agent's services and expenses in affixing cigarette tax stamps. The commission shall be equal to **[eighty-seven hundredths]** ***five hundred eighty-six thousandths*** per cent of the total value of Pennsylvania cigarette tax stamps purchased by the agent from the department or its authorized agents to be used in the stamping of unstamped cigarettes for sale within this Commonwealth. The cigarette stamping agent may deduct from the moneys to be paid to the department or its authorized agents for the stamps an amount equal to **[eighty-seven hundredths]** ***five hundred eighty-six thousandths*** per cent of the value of the stamps purchased. This section shall not apply to purchases of stamps by a cigarette stamping agent in an amount less than one hundred dollars ($100).

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

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

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

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

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

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

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

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

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

ARTICLE XII-A
TOBACCO PRODUCTS TAX

Section 1201-A. Definitions.

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

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

"Cigarette." As defined in section 1201.

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

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

"Dealer." A wholesaler or retailer. Nothing in this article shall preclude any person from being a wholesaler or retailer, provided the person meets the requirements for a license in each category of dealer.

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

"Electronic cigarettes." As follows:

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

(2) The term includes:

(i) A device as described in paragraph (1), notwithstanding whether the device is manufactured, distributed, marketed or sold as

an e-cigarette, e-cigar and e-pipe or under any other product, name or description.

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

"Manufacturer." A person that produces tobacco products.

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

"Purchase price." The total value of anything paid or delivered, or promised to be paid or delivered, money or otherwise, in complete performance of a sale or purchase, without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor or service, interest or discount paid or allowed after the sale is consummated, any other taxes imposed by the Commonwealth or any other expense.

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

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

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

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

"Tobacco products." As follows:

(1) Electronic cigarettes.

(2) Roll-your-own tobacco.

(3) Periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, dry snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or ingesting or for smoking in a pipe or otherwise, or any combination of chewing, ingesting or smoking.

(4) The term does not include:

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

(ii) Cigars.

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

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

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

Section 1202-A. Incidence and rate of tax.

(a) Imposition of tax on certain tobacco products.—A tobacco products tax is imposed on the dealer or manufacturer at the time the tobacco product is first sold to a retailer in this Commonwealth at the rate of 55¢ per ounce for the purchase of any tobacco product other than electronic cigarettes. The tax rate shall include a proportionate tax at the rate of 55¢ per ounce on all fractional parts of an ounce. The tax imposed on tobacco products other than electronic cigarettes that weigh less than 1.2 ounces per container is equal to the amount of the tax imposed on tobacco products other than electronic cigarettes that weigh 1.2 ounces. The tax shall be collected from the retailer by whomever sells the tobacco product to the retailer and remitted to the department. Any person required to collect this tax shall separately state the amount of tax on an invoice or other sales document.

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

(b) Retailer.—A retailer may only purchase tobacco products from a licensed dealer. If the tax is not collected by the seller from the retailer, the tax is imposed on the retailer at the time of purchase at the same rate as in subsections (a) and (a.1) based on the retailer's purchase price of the tobacco products. The retailer shall remit the tax to the department.

(c) Unclassified importer.—The tax is imposed on an unclassified importer at the time of purchase at the same rate as in subsections (a) and

(a.1) based on the unclassified importer's purchase price of the tobacco products. The unclassified importer shall remit the tax to the department.

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

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

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

Section 1203-A. Floor tax.

(a) Payment.—

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

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

(b) Administrative penalty; license.—If a retailer fails to file the report required by subsection (a) or fails to pay the tax imposed by subsection (a), the department may, in addition to the interest and penalties provided in section 1215-A, do any of the following:

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

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

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

Section 1204-A. Remittance of tax to department.

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

Section 1205-A. (Reserved).

Section 1206-A. Procedures for claiming refund.

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

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

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

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

Section 1208-A. Assessment.

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

Section 1209-A. (Reserved).

Section 1210-A. (Reserved).

Section 1211-A. Failure to file return.

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

Section 1212-A. False or fraudulent return.

Where the taxpayer willfully files a false or fraudulent return with intent to evade the tax imposed by this article, the amount of tax due may be assessed and collected at any time.

Section 1213-A. Extension of limitation period.

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

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

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

(b) Examination.—The department is authorized to examine the books and records, the stock of tobacco products and the premises and equipment of any taxpayer in order to verify the accuracy of the payment of the tax imposed by this article. The person subject to an examination shall give to the department or its duly authorized representative the means, facilities and opportunity for the examination. Willful refusal to cooperate with or permit an examination to the satisfaction of the department shall be

sufficient grounds for the suspension or revocation of a taxpayer's license. In addition, a person who willfully refuses to cooperate with or permit an examination to the satisfaction of the department commits a misdemeanor and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of $500 or to imprisonment for not more than one year, or both, at the discretion of the court.

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

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

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

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

(2) The date the tobacco products were sold.

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

(4) The total weight of each of the tobacco products sold to the license holder.

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

(6) The name of the common carrier.

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

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

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

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

Section 1216-A. Sales reporting.

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

Section 1217-A. (Reserved).

Section 1218-A. (Reserved).

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

The department may, in its discretion, require reports from any common or contract carrier who transports tobacco products to any point or points within this Commonwealth, and from any bonded warehouseman or bailee who has in the possession of the warehouseman or bailee any tobacco products. The reports shall contain the information concerning shipments of tobacco products that the department determines to be necessary for the administration of this article. All common and contract carriers, bailees and warehousemen shall permit the examination by the department or its authorized agents of any records relating to the shipment or receipt of tobacco products.

Section 1220-A. Licensing of dealers and manufacturers.

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

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

Section 1221-A. Licensing of manufacturers.

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

Section 1222-A. Licensing of wholesalers.

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

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

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

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

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

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

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

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

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

Section 1223-A. Licensing of retailers.

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

(1) The premises in which the applicant proposes to conduct business are adequate to protect the revenues.

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

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

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

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

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

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

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

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

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

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

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

(4) An applicant for a vending machine tobacco products dealer's license shall pay to the department a license fee of $25.

(b) Proration.—Fees shall not be prorated.

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

Section 1226-A. Electronic filing.

The department may at its discretion require that any or all returns, reports or registrations that are required to be filed under this article be filed electronically. Failure to electronically file any return, report,

registration or other information the department may direct to be filed electronically shall subject the taxpayer to a penalty of 5% of the tax due on the return, up to a maximum of $1,000, but not less than $10. This penalty shall be assessed at any time and collected in the manner provided in this article. This penalty shall be in addition to any civil penalty imposed in this article for failure to furnish information or file a return. The criminal penalty for failure to file a return electronically shall be the same as the criminal penalty for failure to furnish information or file a return under this article.

Section 1227-A. Expiration of license.

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

(b) Violation.—After the expiration date of the license or sooner if the license is suspended, surrendered or revoked, it shall be illegal for any dealer to engage directly or indirectly in the business heretofore conducted by the dealer for which the license was issued. Any licensee who shall, after the expiration date of the license, engage in the business theretofore conducted by the licensee either by way of purchase, sale, distribution or in any other manner directly or indirectly engaged in the business of dealing with tobacco products for profit shall be in violation of this article and be subject to the penalties provided in this article.

Section 1228-A. Administration powers and duties.

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

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

Section 1229-A. Sales without license.

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

(b) Prima facie evidence.—Open display of tobacco products in any manner shall be prima facie evidence that the person displaying such tobacco products is directly or indirectly engaging in the business of dealing with tobacco products for profit.

Section 1230-A. Violations and penalties.

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

(b) Fine.—In addition to the provisions of subsection (a), upon adjudication of a first violation, the person shall be fined not less than $2,500 nor more than $5,000. For subsequent violations, the person shall, upon adjudication thereof, be fined not less than $5,000 nor more than $15,000.

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

Section 1231-A. Property rights.

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

(b) Alterations.—

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

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

(3) References in section 1285 to more than 200 unstamped cigarettes shall apply to tobacco products worth at least $50 in this article.

Section 1232-A. Sample of tobacco products.

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

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

Section 1233-A. Labeling and packaging.

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

Section 1234-A. Information exchange.

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

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

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

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

ARTICLE XVII-D
[FILM] ***ENTERTAINMENT*** PRODUCTION TAX CREDIT

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

SUBARTICLE A
PRELIMINARY PROVISIONS

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

Section 1701-D. Scope of article.

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

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

Section 1702-D. Definitions.

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

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

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

SUBARTICLE B
FILM PRODUCTION

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

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

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

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

"Film." A feature film, a television film, a television talk or game show series, a television commercial or a television pilot or each episode of a television series which is intended as programming for a national audience. The term does not include a production featuring news, current events,

weather and market reports, public programming, sports events, awards shows or other gala events, a production that solicits funds, a production containing obscene material or performances as defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other sexual materials and performances) or a production primarily for private, political, industrial, corporate or institutional purposes.

"Minimum stage filming requirements." Include:

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

(i) build at least one set at a qualified production facility;

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

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

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

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

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

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

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

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

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

(3) An unincorporated entity subject to section 307.21.

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

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

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

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

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

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

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

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

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

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

(8) A qualified postproduction expense.

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

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

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

(ii) Visual effects.

(iii) Graphic design.

(iv) Original scoring.

(v) Animation.

(vi) Musical composition.

(vii) Mastering.

(viii) Dubbing.

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

(i) Editing previously produced content for a film.

(ii) News or current affairs.

(iii) Talk shows.

(iv) Instructional videos.

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

"Production expense." As follows:

(1) The term includes all of the following:

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

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

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

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

(v) The cost of leasing vehicles.

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

(vii) The cost of insurance coverage.

(viii) The costs of food and lodging.

(ix) The purchase of music or story rights.

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

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

(i) Deferred, leveraged or profit participation paid or to be paid to individuals employed in the production of the film or paid to entities

representing an individual for services provided in the production of the film.

(ii) Development cost.

(iii) Expense incurred in marketing or advertising a film.

(iv) Cost related to the sale or assignment of a film production tax credit under section **[1705-D(e)]** ***1714-D(e)***.

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

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

"Qualified postproduction facility." A permanent facility where Pennsylvania postproduction activities are conducted and expenses are incurred to which all of the following apply:

(1) The facility is located in this Commonwealth.

(2) The facility is approved by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Start date." As follows:

(1) ***For a film:***

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

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

(2) **[an earlier]** ***For a postproduction project, a*** date **[than the date under paragraph (1),]** approved by the Pennsylvania Film Office.

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

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

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

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

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

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

(2) The anticipated number of Pennsylvania employees.

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

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

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

(6) The use of studio resources.

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

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

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

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

Upon determining the taxpayer has incurred or will incur qualified film production expenses, the department may approve the taxpayer for a tax credit. Applications not approved may be reviewed and considered in subsequent application periods. The department may approve a taxpayer for a tax credit based on its evaluation of the criteria under this subsection.

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

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

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

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

(4) The start date.

(5) Any other information the department deems appropriate.

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

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

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

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

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

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

(a) General rule.—If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this **[article]** ***subarticle*** may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

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

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

(d) (Reserved).

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

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

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

(3) Before an application is approved, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of

State tax due as determined at settlement, assessment or determination by the Department of Revenue.

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

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

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

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

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

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

(g) Limited carry forward of tax credits by a purchaser or assignee.—A purchaser or assignee may carry forward all or any unused portion of a tax credit purchased or assigned in:

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

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

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

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

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

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

(1) The location where services are performed.

(2) The location where supplies are consumed.

(3) Other factors the department determines are relevant.

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

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

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

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

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

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

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

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

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

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

(b) Individual limitations.—The following shall apply:

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

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

(i) films a feature film, television film or television series, which is intended as programming for a national audience; and

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

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

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

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

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

qualified production facility ***or qualified postproduction facility*** if the taxpayer who has Pennsylvania production expenses of at least $30,000,000 per production meets the minimum stage filming requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The department shall develop written guidelines for the implementation of the provisions of this **[article]** ***subarticle***. The guidelines shall be in effect until such time as the department promulgates regulations for the implementation of the provisions of this **[article]** ***subarticle***. The department shall promulgate regulations for the implementation of this **[article]** ***subarticle*** within two years of the effective date of this section.

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

(a) General rule.—No later than June 1, 2008, and September 1 of each year thereafter, the Secretary of Community and Economic Development

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

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

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

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

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

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

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

(a) Composition.—A Film Advisory Board is established. The board shall work with the Pennsylvania Film Office and the regional film offices to promote the film industry throughout this Commonwealth and to examine and file a written report on the effectiveness of the tax credit and grant programs. The report shall be included in the department's report required under section **[1711-D]** ***1720-D***. The board shall consist of the following members:

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

(2) A member appointed by the Governor.

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

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

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

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

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

(c) Meetings.—The board shall meet no less than twice each year.

(d) Chairman.—The members of the board shall elect the chairman.

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

SUBARTICLE C
CONCERT REHEARSAL AND TOUR

Section 1731-D. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

"Concert tour equipment." Includes stage, set, scenery, design elements, automation, rigging, trusses, spotlights, lighting, sound equipment, video equipment, special effects, cases, communication devices, power distribution equipment, backline and other miscellaneous equipment or supplies used during a concert or rehearsal.

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

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

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

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

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

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

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

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

(3) An unincorporated entity subject to section 307.21.

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

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

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

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

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

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

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

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

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

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

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

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

(6) Has a perimeter security system which includes 24-hour, seven-days-a-week security cameras and the use of access control identification badges.

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

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

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

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

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

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

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

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

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

(3) The cost of leasing vehicles.

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

(5) The cost of insurance coverage.

(6) The cost of food and lodging.

(7) The cost of purchase or rental of concert tour equipment.

(8) The cost of renting a rehearsal facility.

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

"Rehearsal facility." As follows:

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

(i) Located within this Commonwealth.

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

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

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

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

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

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

"Tour expense." As follows:

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

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

(ii) The cost of transportation of people or concert touring equipment incurred while transporting to or from a train station, bus depot, airport or other transportation facility or while

transporting directly from a residence or business entity, located in this Commonwealth or incurred for transportation provided by a company which is subject to the tax imposed under Article III or IV.

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

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

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

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

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

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

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

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

Section 1732-D. Procedure.

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

(b) Review and approval.—

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

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

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

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

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

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

(vi) The anticipated tour expenses.

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

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

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

(2) Upon determining that the taxpayer has paid the applicable application fee, not to exceed $300, has met the minimum rehearsal and tour requirements and has incurred or will incur qualified rehearsal and tour expenses, the department may approve the taxpayer for a tax credit. Applications not approved may be reviewed and considered in

subsequent application periods. The department may approve a taxpayer for a tax credit based on its evaluation of the criteria under this subsection.

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

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

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

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

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

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

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

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

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

(9) Any other information the department deems appropriate.

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

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

Section 1733-D. Claim.

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

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

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

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

approved before the tax credit can be applied against any tax liability under subsection (a).

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

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

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

(1) The location where services are performed.

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

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

(4) Other factors the department determines are relevant.

Section 1736-D. Limitations.

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

(b) Advance award of credits.—

(1) The advance award of tax credits under subsection (a) shall:

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

(ii) reduce the dollar amount of tax credits that the department may award in that next succeeding fiscal year.

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

(c) Individual limitations.—The following shall apply:

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

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

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

(4) Except as provided under paragraph (5), the aggregate amount of tax credits awarded by the department under section 1732-D(d) to a taxpayer for a tour with concerts at a class 1 venue and a class 3 venue

which does not serve alcohol may not exceed 35% of the qualified rehearsal and tour expenses incurred or to be incurred.

(5) In addition to the tax credits under paragraph (2), (3) or (4), a taxpayer is eligible for a tax credit in the amount of 5% of the qualified rehearsal and tour expenses incurred or to be incurred by the taxpayer if the taxpayer holds concerts at a total of two or more class 2 venues or class 3 venues.

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

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

Section 1737-D. Penalty.

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

Section 1738-D. Pass-through entity.

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

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

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

Section 1739-D. Department guidelines and regulations.

The department shall develop written guidelines for the implementation of the provisions of this subarticle. The guidelines shall be in effect until

such time as the department promulgates regulations for the implementation of the provisions of this subarticle. The department shall promulgate regulations for the implementation of this subarticle within two years of the effective date of this section.

Section 1740-D. Report to General Assembly.

No later than June 1, 2018, and September 1 of each year thereafter, the Secretary of Community and Economic Development shall submit a report to the General Assembly summarizing the effectiveness of the tax credits provided by this subarticle. The report shall include the name of the tours which rehearsed in this Commonwealth, the names of all taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for each taxpayer. The report may also include any recommendations for changes in the calculation or administration of the tax credits provided by this subarticle. The report shall be submitted to the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Finance Committee of the Senate, the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. In addition to the information set forth above, the report shall include the following information, which shall be separated by geographic location within this Commonwealth:

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

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

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

SUBARTICLE D
VIDEO GAME PRODUCTION

Section 1751-D. Scope of subarticle.

This subarticle relates to video game production tax credits.

Section 1752-D. Definitions.

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

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

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

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

(3) An unincorporated entity subject to section 307.21.

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

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

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

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

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

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

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

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

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

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

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

"Production expense." As follows:

(1) The term includes all of the following:

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

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

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

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

(v) The cost of leasing vehicles.

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

(vii) The cost of insurance coverage.

(viii) The costs of food and lodging.

(ix) The purchase of music or story rights.

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

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

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

(i) Deferred, leveraged or profit participation paid or to be paid to individuals employed in the production of a video game or paid to entities representing an individual for services provided in the production of a video game.

(ii) Expenses incurred in marketing or advertising a video game.

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

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

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

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

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

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

"Video game." An electronic game that involves interaction with a user interface to generate visual feedback on a video device. The term does not include a game that contains obscene material or performances as defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other sexual materials and performances) or a game designed primarily for private, political, industrial, corporate or institutional purposes.

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

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

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

(3) Computer code.

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

(5) Concept mock-ups.

(6) Software tools.

(7) Testing procedures.

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

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

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

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

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

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

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

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

(4) The principal production start date.

(5) Any other information the department deems appropriate.

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

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

Section 1754-D. Video game production tax credits.

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

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

(a) General rule.—If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the tax credit.

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

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

(d) (Reserved).

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

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

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

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

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

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

Section 1756-D. Determination of Pennsylvania production expenses.

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

(1) The location where services are performed.

(2) The location where supplies are consumed.

(3) Other factors the department determines are relevant.

Section 1757-D. Limitations.

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

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

Section 1758-D. Penalty.

A taxpayer which claims a tax credit and fails to incur the amount of qualified video game production expenses agreed to in section 1753-D(c)(3) for a video game in that taxable year shall repay to the Commonwealth the amount of the video game production tax credit claimed under this subarticle for the video game.

Section 1759-D. Pass-through entity.

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

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

(c) Application.—A shareholder, member or partner of a pass-through entity to whom a tax credit is transferred under subsection (a) shall

immediately claim the tax credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the tax credit.

Section 1760-D. Department guidelines and regulations.

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

Section 1761-D. Report to General Assembly.

(a) General rule.—No later than June 1 of the second year that commences after the effective date of this section, and September 1 of each year thereafter, the Secretary of Community and Economic Development shall submit a report to the General Assembly summarizing the effectiveness of the tax credit. The report shall include the name of the video game produced, the names of all taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by each taxpayer. The report may also include recommendations for changes in the calculation or administration of the tax credit. The report shall be submitted to the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Finance Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. In addition to the information stated in this section, the report shall include the following information which shall be separated by geographic location within this Commonwealth:

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

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

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

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

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

Section 31. (Reserved).

Section 32. (Reserved).

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

ARTICLE XVII-J
COAL REFUSE ENERGY AND RECLAMATION TAX CREDIT

Section 1701-J. Scope of article.

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

Section 1702-J. (Reserved).

Section 1703-J. Definitions.

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

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

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

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

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

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

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

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

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

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

(3) An unincorporated entity subject to section 307.21.

"Qualified coal refuse." Any waste coal, rock, shale, slurry, culm, gob, boney, slate, clay and related materials associated with or near a coal seam that are either brought above ground or otherwise removed from a coal mine in the process of mining coal or that are separated from coal during the cleaning or preparation operations. The term includes underground development wastes, coal processing wastes and excess spoil, but does not include overburden from surface mining activities.

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

"Qualified taxpayer." A person that owns an eligible facility in this Commonwealth or is a transferor, purchaser, affiliate or assignee of a person to which a tax credit certificate is issued under this article.

"Tax credit." The coal refuse energy and reclamation tax credit provided under this article.

"Ton." Two thousand pounds of qualified coal refuse, including inherent moisture, ash, sulphur and other noncalorific substances, but excluding excess moisture.

Section 1704-J. Application and approval of tax credit.

(a) Application.—The following shall apply:

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

(2) The application must be submitted to the department by February 1 of each year for the tax credit claimed for qualified coal refuse used at an eligible facility during the prior calendar year.

(b) Amount.—Except as otherwise provided under section 1707-J, a qualified taxpayer shall receive a tax credit equal to $4 multiplied by the tons of qualified coal refuse used to generate electricity at an eligible facility in this Commonwealth by a qualified taxpayer in the previous calendar year.

(c) Review and approval.—The following shall apply:

(1) The department shall review and approve applications meeting the requirements of this article by March 20 of each year.

(2) The department may require information necessary to document that a facility qualifies as an eligible facility and the amount of qualified coal refuse used to generate electricity at the eligible facility.

(3) In the review of applications for tax credits, the department shall consult with the Department of Environmental Protection with respect to whether a facility qualifies as an eligible facility and to review the eligible facility's calculation of the amount of qualified coal refuse used to generate electricity.

(3.1) Prior to approving an application, the applicant must have:

(i) filed all required State tax reports and returns for all applicable taxable years; and

(ii) paid any balance of State tax due as determined by assessment or determination by the Department of Revenue and not under timely appeal.

(4) Upon approval, the department shall issue a certificate stating the amount of tax credit granted for qualified coal refuse used in the prior calendar year.

(d) Expiration.—The department may not approve an application for a tax credit under this article after December 31, 2026.

Section 1705-J. Claim of tax credit.

(a) General rule.—A qualified taxpayer may claim a tax credit against the qualified tax liability of the qualified taxpayer.

(b) Coal refuse use.—A tax credit may be claimed against a qualified tax liability for a taxable year which begins in the same calendar year that the qualified coal refuse was used at the eligible facility to generate the tax credit.

Section 1706-J. Carryover and carryback.

(a) General rule.—If a qualified taxpayer does not use all or any portion of a tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the qualified taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than 15 taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) No carryback or refund.—A qualified taxpayer is not entitled to carry back or obtain a refund of all or any portion of an unused tax credit granted to the qualified taxpayer under this article.

Section 1707-J. Limitation on tax credits.

(a) Amount.—The total amount of tax credits issued by the department may not exceed $7,500,000 in fiscal year 2016-2017 and $10,000,000 in each fiscal year thereafter.

(b) Proration.—If the total amount of otherwise approvable tax credits applied for by all qualified taxpayers exceeds the amount under subsection (a), the tax credit to be received by each qualified taxpayer shall be the product of the amount under subsection (a) multiplied by the quotient of the tax credits otherwise approvable for the qualified taxpayer divided by the total of all tax credits otherwise approvable for all qualified taxpayers.

(c) Restriction.—Notwithstanding subsection (b), the department may not grant more than 22.2% of the amount under subsection (a) in tax credits to a single eligible facility in any fiscal year.

Section 1708-J. Pass-through entity.

(a) Election.—If a tax credit certificate is issued to a pass-through entity, the pass-through entity may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled or in any other manner designated by the pass-through entity in accordance with its governance documents and without regard to how distributive income, losses or credits are allocated for other tax purposes.

(b) Limitation.—The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or patron of the pass-through entity.

(c) Time.—A transferee under subsection (a) may only use a tax credit during a taxable year for which use of the credit is authorized under sections 1704-J(c)(4) and 1706-J.

Section 1709-J. Use of credits by affiliates.

In addition to reducing or eliminating the qualified tax liability of a qualified taxpayer, a tax credit under this article may be applied to reduce or eliminate the qualified tax liability of any affiliate of a qualified taxpayer. An affiliate may only use a tax credit during a taxable year for which use of the credit is authorized under sections 1704-J(c)(4) and 1706-J.

Section 1710-J. Sale or assignment.

(a) Authorization.—Upon approval by the Department of Revenue, a qualified taxpayer may sell or assign, in whole or in part, a tax credit granted to the taxpayer under this article.

(b) Application.—The following shall apply:

(1) To sell or assign a tax credit, a qualified taxpayer must file an application for the sale or assignment of the tax credit with the Department of Revenue. The application must be on a form required by the Department of Revenue.

(2) The Department of Revenue shall approve a sale or assignment if the purchaser or assignee has:

(i) filed all required State tax reports and returns for all applicable taxable years; and

(ii) paid any balance of State tax due as determined by assessment or determination by the Department of Revenue and not under timely appeal.

Section 1711-J. Purchasers and assignees.

(a) Claim.—The purchaser or assignee of all or a portion of a tax credit under section 1710-J shall immediately claim the credit in the taxable year in which the purchase or assignment is made.

(b) Amount.—The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 75% of such qualified tax liability for the taxable year.

(c) Use.—The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit.

Section 1712-J. Administration.

(a) Audits and assessments.—The Department of Revenue has the following powers:

(1) To audit a qualified taxpayer claiming a tax credit to ascertain the validity of the amount claimed.

(2) To issue an assessment against a qualified taxpayer for an improperly issued tax credit. The procedures, collection, enforcement and appeals of any assessment made under this section shall be governed by Article IV.

(b) Guidelines.—The department shall develop written guidelines for the implementation of this article.

Section 1713-J. Annual report to General Assembly.

By October 1, 2017, and October 1 of each year thereafter, the department shall submit a report on the tax credit provided by this article to the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Finance Committee of the Senate, the chairperson and minority chairperson of the Appropriations Committee of the House of

Representatives and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. The report must include:

(1) the names of the qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by a qualified taxpayer; and

(2) data concerning the benefits provided to the Commonwealth in terms of the quantity of coal refuse utilized by qualifying facilities and the volume of coal ash generated by qualifying facilities which is beneficially used to reclaim mine-affected lands.

Section 1714-J. Applicability.

The tax credit established under this article shall apply to taxable years beginning after December 31, 2015.

ARTICLE XVII-K
WATERFRONT DEVELOPMENT TAX CREDIT

Section 1701-K. Scope of article.

This article relates to the Waterfront Development Tax Credit.

Section 1702-K. Definitions.

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

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article III, IV, VI, VII, VIII, IX or XV or the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. The term includes a pass-through entity.

"Contribution." A donation of cash or personal property made by a business firm to a waterfront development organization to fund a waterfront development project under this article.

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

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

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

(2) A Pennsylvania S corporation as defined under section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Tax credit." The waterfront development tax credit authorized by this article.

"Waterfront." A site that is directly adjacent to a body of water.

"Waterfront development organization." An authority established under the act of December 6, 1972 (P.L.1392, No.298), known as the Third Class City Port Authority Act, or a nonprofit entity that meets all of the following:

(1) For a nonprofit entity, is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

(2) Has been in existence for a minimum of five years.

(3) Has a board of directors which meets at least once annually.

(4) Has completed a waterfront development plan.

"Waterfront development plan." A plan approved by the Department of Community and Economic Development that meets all of the following:

(1) Provides for the development or enhancement of waterfront property that creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation to incentivize future economic development.

(2) Adheres to current environmental practices.

(3) Considers and integrates approaches that support natural and native habitat.

(4) Considers and integrates architectural and landscape design elements and standards.

"Waterfront development project." A project to develop a waterfront site or area or a project that creates or improves public access and connections to the waterfront. The term may include:

(1) Streets and public rights-of-way.

(2) Waterfront parks, gardens and open spaces.

(3) Enhancement of access to public utilities.

(4) The promotion of erosion control, storm water management and other environmental projects that promote economic development.

(5) Water transportation facilities for use by the public, including water transit landings and boat docking.

(6) Amenities, including infrastructure and recreational projects.

Section 1703-K. Waterfront Development Tax Credit Program.

The Waterfront Development Tax Credit Program is established in the department to encourage private investment in waterfront property that creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation.

Section 1704-K. Waterfront development organizations.

(a) Applications.—An application to qualify as a waterfront development organization must be submitted on a form and in a manner as required by the department.

(b) Information.—An application to qualify as a waterfront development organization shall include all of the following:

(1) Confirmation that the organization is a waterfront development organization.

(2) The age of the organization.

(3) The board of directors meeting schedule.

(4) Waterfront development plans completed within the last five years.

(5) A list of completed, ongoing and planned waterfront development projects.

(c) Approval.—No later than 60 days after a waterfront development organization has submitted an application under this section, the department shall notify a waterfront development organization if the organization meets the requirements of this section for the current fiscal year.

(d) Renewal of waterfront organization status.—A waterfront development organization shall annually file a renewal application on a form provided by the department to maintain eligibility as a waterfront development organization. The renewal application shall include:

(1) The total number of waterfront development projects funded, by municipality, during the immediately preceding year.

(2) The total amount expended for waterfront development projects, by municipality, during the immediately preceding year.

(3) The total amount expended on waterfront development projects, by municipality, attributable to contributions from business firms.

(4) The number of waterfront development projects completed, by municipality, during the immediately preceding year.

(5) A copy of the Federal Form 990 or other Federal form of the waterfront development organization that indicates the tax status of the organization for Federal tax purposes, if any.

(6) A copy of a compilation, review or audit of the financial statements of the waterfront development organization conducted by a certified public accounting firm.

Section 1705-K. Waterfront development projects.

(a) General rule.—To qualify for a tax credit, contributions made to a waterfront development organization must be used by the waterfront development organization for a waterfront development project approved under this section.

(b) Submission.—After approval of a waterfront development organization's application under section 1704-K(c), the organization may submit, on a form and in a manner required by the department, waterfront development projects for approval by the department. The submission shall include for each waterfront development project:

(1) The location of the waterfront development project.

(2) The type of waterfront development project.

(3) A detailed description of the waterfront development project, including architectural and engineering drawings.

(4) The status of the waterfront development project.

(5) The anticipated start date and completion date for the waterfront development project.

(6) The life expectancy of the waterfront development project and a plan for maintenance following completion.

(7) The estimated cost of the waterfront development project.

(8) Analysis of the direct current and future economic benefits derived from the waterfront development project, including indirect and direct job creation projections.

(9) The manner in which the waterfront development organization will do all of the following:

(i) Verify eligibility of costs.

(ii) Monitor progress of the waterfront development project.

(iii) Assure that contributions received are used for the waterfront development project for which the contributions have been designated.

(10) Any other information required by the department.

(c) Review of applications.—The department, in conjunction with the Department of Conservation and Natural Resources, shall review applications received from waterfront development organizations under this section.

(d) Notice of approval or disapproval.—

(1) Within 60 days after receipt of an application, the department shall notify the waterfront development organization of its approval or disapproval of a waterfront development project.

(2) If the application is disapproved, the notice of disapproval shall include the reasons for disapproval.

(3) A waterfront development organization may resubmit the application within 30 days after receipt of a notice of disapproval.

(e) Publication.—The department shall annually publish a list of each waterfront development organization, its approved waterfront development projects under this section and the total aggregate cost of the waterfront development projects in the Pennsylvania Bulletin. The list shall be posted and updated as necessary on the publicly accessible Internet website of the department.

(f) Completion.—Upon completion of a waterfront development project approved under subsection (b), the waterfront development organization shall submit written notice of project completion to the department. The notice shall include all of the following information:

(1) Certification that the waterfront development project is complete.

(2) An upkeep and maintenance plan, if applicable, to the waterfront development project.

(3) Any other information required by the department.

(g) Inspection.—Waterfront development projects approved under subsection (b) may be subject to inspection by the department or its designated agent.

(h) Administrative fees.—No more than 5% of the contributions received under this article may be used for administrative fees.

Section 1706-K. Tax credit.

(a) General rule.—A business firm that provides contributions to a waterfront development organization to fund waterfront development projects approved by the department under section 1705-K shall receive a tax credit as provided in section 1707-K, within the limitations of section 1708-K, if the department approves the waterfront development projects. The application must specify the waterfront development organization the contribution is being made to and the waterfront development projects being conducted by the organization.

(b) Rules and regulations.—

(1) The department may promulgate rules and regulations for the approval or disapproval of applications by business firms.

(2) The department shall provide a report listing all applications received and the disposition of the applications in each fiscal year to the General Assembly by October 1 of the following fiscal year. The department's report shall include all taxpayers utilizing the tax credit and the amount of tax credits approved, sold or assigned.

(3) Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(c) Availability of tax credits.—Tax credits shall be made available by the department on a first-come, first-served basis within the limitation established under section 1708-K.

(d) Sale or assignment of tax credits.—

(1) A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a waterfront development tax credit granted to the business firm under this article if no claim for allowance of the credit is filed within one year from the date the credit is granted by the Department of Revenue under section 1707-K. The department and the Department of Revenue shall jointly promulgate guidelines for the approval of applications under this subsection.

(2) The purchaser or assignee of a waterfront development tax credit under subsection (d) shall immediately claim the tax credit in the taxable year in which the purchase or assignment is made.

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

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

(e) Application of tax credit.—The waterfront development tax credit approved by the department shall be applied against the business firm's tax liability for the taxes under section 1707-K for the current taxable year as of the date on which the tax credit was approved before the waterfront development tax credit may be carried over, sold or assigned.

Section 1707-K. Grant of tax credits.

(a) General rule.—The Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV or Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or any tax substituted in lieu thereof.

(b) Prohibition.—A tax credit may not be granted for fiscal years prior to fiscal year 2017-2018.

Section 1708-K. Limitations.

The following limitations shall apply to the tax credits:

(1) No tax credit may exceed 75% of the total contribution made by a business firm during a taxable year.

(2) No tax credit shall be granted to a business firm for activities that are a part of its normal course of business or in which the business firm has a pecuniary interest.

(3) A tax credit not used in the period the contribution or investment was made may be carried over for the next five succeeding calendar or fiscal years until the full credit has been allowed. No business firm may carry back or obtain a refund of an unused tax credit.

(4) The total amount of all tax credits shall not exceed $1,500,000 in any one fiscal year.

(5) In any one fiscal year, the department may not approve more tax credits for contributions made to a waterfront development organization than the total aggregate cost of waterfront development projects approved under section 1705-K(d).

Section 1709-K. Decision in writing.

The decision of the department to approve or disapprove a project under section 1705-K(d) shall be in writing and, if the project is approved by the department, it shall state the maximum credit allowable to the business firm. A copy of the decision of the department shall be transmitted to the Governor and to the Secretary of Revenue.

Section 1710-K. Pass-through entity.

(a) General rule.—If a pass-through entity has an unused tax credit under section 1707-K, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Limitations.—

(1) The credit provided under subsection (a) is in addition to any waterfront development tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this article. However, a pass-through entity and a shareholder, member or partner of a pass-through entity may not claim a credit under this article for the same waterfront development project.

(2) A shareholder, member or partner of a pass-through entity to whom credit is transferred under subsection (a) must immediately claim the credit in the taxable year in which the transfer is made.

(3) The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

Section 33.1. Section 1801-B of the act is amended by adding a definition to read:

Section 1801-B. Definitions.

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

* * *

"Veteran." An individual who served on active duty in the United States Armed Forces, including any of the following:

(1) A reservist or member of the National Guard who was discharged or released from the service under honorable conditions.

(2) A reservist or member of the National Guard who completed an initial term of enlistment or qualifying period of service.

(3) A reservist or member of the National Guard who was disabled in the line of duty during training.

* * *

Section 33.2. Section 1804-B(a) and (d) of the act, amended July 2, 2012 (P.L.751, No.85) and July 9, 2013 (P.L.270, No.52), are amended to read:

Section 1804-B. Tax credits.

(a) Maximum amount.—A company may claim a tax credit of $1,000 per new job created, or $2,500 per each new job created if the newly created job is filled by ***a veteran or*** an unemployed individual, up to the maximum job creation tax credit amount specified in the commitment letter.

* * *

(d) Tax credit term.—

(1) A company may claim the job creation tax credit for each new job created, as approved by the department, for a one-year, two-year or three-year period as authorized by the department, except that no tax credit may be claimed for more than five years from the date the company first submits a job creation tax credit certificate. ***The department may award the total amount of tax credit authorized for a multiple-year tax credit in the first year in which the new job is created and the tax credit earned.***

(2) Notwithstanding the provisions of paragraph (1), nothing in this article shall be construed to prohibit the Department of Community and Economic Development from awarding the total amount of tax credit authorized for a multiple-year tax credit in the first year in which the new job is created and the tax credit earned.

* * *

Section 34. Section 1802-C of the act, amended or added July 9, 2013 (P.L.270, No.52) and October 31, 2014 (P.L.2929, No.194), is amended to read:

Section 1802-C. Definitions.

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

"Baseline tax amount." The amount of State or local eligible taxes paid relating to each qualified business that is not a new business, less eligible State or local tax refunds, relating to each qualified business for the first full calendar year in which the qualified business established a presence in the zone.

"Baseline year." The calendar year in which a zone was established.

"Bond." The term includes any ***public or private financing,*** note, ***mortgage, loan, deed of trust,*** instrument, refunding note or other evidence of indebtedness or obligation.

"Business personal property." The term includes furniture, fixtures, equipment and other similar property purchased and used in the zone.

"City." A city of the ***second class A or*** third class ***or a home rule municipality*** with a population of at least **[30,000]** ***20,000*** based on the most recent Federal decennial census. **[The term shall not include a city that has had a receiver appointed under Chapter 7 of the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act.]**

"City revitalization and improvement zone." An area of not more than 130 acres, ***that may include an area in one or more contiguous municipalities,*** comprised of parcels designated by the contracting authority, which will provide economic development and job creation within a city.

"Contracting authority." **[An authority established under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) by a city, borough, township or home rule county for the purpose of:**

(1) designating zones; and

(2) engaging in the construction, including related site preparation and infrastructure, reconstruction or renovation of facilities.] ***A new or existing authority established or designated by a city, municipality or home rule county to designate and administer zones. The term shall include:***

(1) An authority established under 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

(2) An authority established under the former act of December 27, 1994 (P.L.1375, No.162), known as the Third Class County Convention Center Authority Act, or under Article XXIII(n) or (o) of the act of August 9, 1955 (P.L.323, No.130), known as the County Code.

(3) An authority established by a contiguous municipality under 53 Pa.C.S. Ch. 56 for the purposes of this act.

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

"Earned income tax." A tax imposed on earned income within a zone under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, which a city, or a school district contained entirely within the boundaries of or coterminous with the city, is entitled to receive.

"Eligible tax." Any of the following taxes:

(1) Corporate net income tax, capital stock and franchise tax, bank shares tax, ***personal income tax paid by shareholders, members or partners of Subchapter S corporations, limited liability companies, partnerships or sole proprietors on income other than passive activity income as defined under section 469 of the Internal Revenue Code of 1986 (Public Law 99-516, 26 U.S.C. § 1 et seq.)*** or business privilege tax, calculated and apportioned as to amount attributable to the location within the zone and calculated under section 1904-B(b) and (c).

(2) Amusement tax, only to the extent the tax is related to the activity of a qualified business within the zone.

(3) Sales and use tax, only to the extent the tax is related to the activity of a qualified business within the zone. ***The term includes sales and use taxes on material used for construction in the zone and business personal property to be used by the qualified business in the zone.***

(3.1) The hotel occupancy tax imposed under Part V of Article II.

(4) Personal income tax withheld from its employees by a qualified business for work performed in the zone.

(5) Local services tax withheld from its employees by a qualified business for work performed in the zone.

(6) Earned income tax withheld from its employees by a qualified business for work performed in the zone.

(7) **[Tax]** ***All taxes*** paid to the Commonwealth **[on the]**, ***or an amount equal to all of the taxes paid to the Commonwealth, related to the purchase or*** sale of liquor, wine or malt or brewed beverages ***by a***

licensee located in the zone ***for purchases that occurred outside the zone.***

The term does not include cigarette tax.

"Facility." A structure or complex of structures ***in a zone*** to be used for commercial, ***industrial,*** sports, exhibition, hospitality, conference, retail, community, office, recreational or mixed-use purposes.

"Increment." The amount of eligible taxes generated by a new business, taxes excluded from the baseline tax amount pursuant to section 1810-C(b)(3) and amount of eligible taxes generated by a qualified business above the qualified business's baseline tax amount.

"Infrastructure." Any improvements in or out of the zone primarily related to the development of and required by a facility in the zone, including, but not limited to, utilities, water, sewer, storm water, parking, road improvements or telecommunications within the city or municipality or within a municipality contiguous to that city or municipality.

"Licensee." An individual licensed under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

"Lobbyist." As defined in 65 Pa.C.S. § 13A03 (relating to definitions).

"Municipality." An incorporated town, township or borough.

"New business." Any of the following:

(1) any new or separate legal entity that locates or has a location in the zone; or

(2) a business already located in this Commonwealth and conducting operations outside the zone which expands into the zone with a new operation as evidenced by a new facility, business personal property, products or additional employees and continues operations outside the zone without substantial change in business. Only eligible taxes related to activity within the zone shall be attributable to the location in the zone.

"Office." The Office of the Budget.

"Pilot zone." An area of not more than **[130]** ***100*** acres designated by the contracting authority following application and approval by the Department of Community and Economic Development, the office and the department which will provide economic development and job creation within **[a township or borough]** ***one or more municipalities***, with a ***total*** population of at least 7,000 based on the most recent Federal decennial census.

"Professional services." Any of the following:

(1) Legal services.

(2) Advertising or public relations services.

(3) Engineering services.

(4) Architectural, landscaping or surveying services.

(5) Accounting, auditing or actuarial services.

(6) Security consultant services.

(7) Computer and information technology services, except telephone service.

(8) Insurance underwriting services.

(9) Compliance services.

(10) Financial auditing services.

"Qualified business." As follows:

(1) An entity located or partially located in a zone which meets the requirements of all of the following:

(i) Has conducted an active trade or business in the zone.

(ii) Appears on the timely filed list under section 1807-C(a).

(2) A construction contractor engaged in construction, including infrastructure or site preparation, reconstruction or renovation of a facility **[located in or partially in the zone]**.

(3) The term does not include an agent, broker or representative of a business.

"Zone." Any of the following:

(1) A city revitalization and improvement zone.

(2) A pilot zone.

"Zone Fund." A city revitalization and improvement zone ***or pilot zone*** fund established under section 1808-C.

Section 35. Section 1803-C heading and (a) of the act, amended October 31, 2014 (P.L.2929, No.194), are amended to read:

Section 1803-C. Establishment ***or designation*** of contracting authority.

(a) Authorization.—Except as set forth in subsection (b), a city, **[borough or township]** ***municipality or home rule county*** may establish ***or designate*** a contracting authority to designate a zone under this article.

* * *

Section 36. The act is amended by adding a section to read:

Section 1803.1-C. Contracting authority duties.

A contracting authority shall:

(1) Hold at least one public hearing on the plan for the designation of a zone. At the public hearing, any interested party may be heard.

(2) Prior to designation of the zone, post the name and address of the owner of each business and property to be located within the zone and a map of the zone on the website of the city or municipality where the zone will be located, if one exists. If a website does not exist, the map and list of names shall be published in a newspaper of general circulation serving the county where the zone is located. The map and list of names shall be made available for public inspection.

(3) Issue bonds and engage in the financing, construction, acquisition, development, related site preparation and infrastructure, reconstruction or renovation of facilities in accordance with this article.

Section 37. Sections 1804-C, 1806-C, 1807-C, 1808-C, 1809-C, 1810-C, 1811-C, 1812-C, 1813-C, 1814-C, 1816-C and 1818-C of the act, added July 9, 2013 (P.L.270, No.52), are amended to read:

Section 1804-C. Approval.

(a) Submission.—A contracting authority may apply to the Department of Community and Economic Development for approval of a zone plan. The application must include all of the following:

(1) A plan to establish one or more facilities which will promote economic development.

(2) An economic development plan, ***including a plan for the repayment of all bonds***.

(3) Specific information relating to the facility which will be constructed, including infrastructure and site preparation, reconstructed or renovated as part of the plan.

(4) Other information as required by the Department of Community and Economic Development, the office or the department.

(5) A designation of the specific geographic area, including parcel numbers and a map of the zone with parcel numbers, of which the zone will consist.

(b) Agencies.—The Department of Community and Economic Development, the office and the department must approve each application.

(b.1) Review.—The Department of Community and Economic Development, the department and the office shall consider the following when determining a designation:

(1) Economic impact of the zone.

(2) Number of jobs that will be created.

(3) Potential State and local tax revenue impact.

(4) Financial fitness and ability of the applicant to repay bonds.

(5) The proximity to previously approved zones.

(6) Any other relevant factor.

(c) Approval schedule.—The Department of Community and Economic Development shall develop a schedule for the approval of applications under this section as follows:

(1) Following the effective date of this paragraph, applications for two initial ***city revitalization and improvement*** zones ***and one pilot zone*** may be approved.

(2) Beginning in 2016, applications for two additional zones may be approved each calendar year.

[(3) Following the effective date of this paragraph, the Department of Community and Economic Development, the office and the department, may approve one pilot zone.]

(c.1) Agreement.—An area that covers contiguous cities or municipalities shall require an agreement among each participant to be included in the zone, evidenced by a resolution of each participant.

(d) Time.—**[An application under this section shall be approved or disapproved within 90 days of the postmark date of submission. An application which is not disapproved within the time period under this subsection shall be deemed to be approved.]** ***The Department of Community and Economic Development shall establish and publish application deadlines in the Pennsylvania Bulletin and on its publicly accessible Internet website.***

(e) Reapplication.—If an application is not approved under this section, the applicant may revise ***and resubmit*** the application and plan **[and reapply]** for approval.

(f) Limitation.—No more than one zone may exist in a city or municipality at any given time.

Section 1806-C. Functions of contracting authorities.

(a) Powers.—The contracting authority may do all of the following:

(1) Designate a zone where a facility may be ***acquired,*** constructed, including infrastructure and site preparation, reconstructed or renovated.

(2) **[Provide or borrow money for any of the following purposes:**

(i) Development or improvement within a zone.

(ii) Construction, including infrastructure and site preparation, reconstruction or renovation of a facility within a zone which will result in economic development in accordance with the contracting authority's plan.] ***Engage in the acquisition, development, construction, including infrastructure and site preparation, reconstruction or renovation of facilities.***

(3) Engage in the public or private financing of the acquisition, development, construction, including infrastructure and site preparation, reconstruction or renovation of facilities.

(4) Utilize money under section 1813-C.

(b) Money from fund.—A member of the contracting authority may not receive money directly or indirectly from the fund.

(c) Prohibitions.—The following shall apply:

(1) A member, officer or employee of the contracting authority or a member of the governing body or the chief executive officer of the city, municipality or home rule county that created the contracting authority may not:

(i) Receive money from the zone fund for personal use.

(ii) Have a direct ownership interest in a property or parcel included in the zone.

(2) No member, officer, director or employee of the contracting authority, no member of the governing body and no chief executive officer may:

(i) Solicit, accept or receive from a person, firm, corporation or other business or professional organization doing business in the zone or with the contracting authority a gift or a gratuity. This subparagraph shall not apply to a gift or business entertainment of less than $250.

(ii) Directly or indirectly use for personal gain information not available to the public concerning the development of a project which comes to that individual as a result of the affiliation with the contracting authority city or municipality involved in the development or operation of the zone.

(c.1) Disclosure.—The board of directors of the contracting authority, governing body of a city or municipality, consultant, lobbyist or independent contractor of the contracting authority, city or municipality or home rule county creating the contracting authority must disclose the nature and extent of any financial interest as defined in 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) or that of his or her immediate family in property within the zone to the contracting authority, the city or municipality where the zone is located and to the Department of Community and Economic Development. The Department of Community and Economic Development must place the disclosures on the Department of Community and Economic Development's publicly accessible Internet website.

(d) Action by contracting authority.—The board of directors of the contracting authority or the governing body of a city or municipality in

which the zone is located must avoid a conflict of interest or impropriety with regard to a property or project in the zone or the operation or management of the zone. Each disclosure statement shall be made a part of the minutes of the contracting authority, city or municipality at a regular or special meeting.

(e) Copy.—The contracting authority must provide a copy of the disclosure under this section to each member, officer, director, employee, consultant, lobbyist and independent contractor of the contracting authority or governing body of the city or municipality in which the zone is located.

(f) Disciplinary action.—The contracting authority shall refer suspected violations to the State Ethics Commission or the county district attorney, if appropriate.

(g) Ethics.—A member of the contracting authority must comply with 65 Pa.C.S. Ch. 11.

Section 1807-C. Qualified businesses.

(a) List.—By June 1 following the end of the baseline year, and for every year thereafter, each contracting authority shall file with the department a complete list of all businesses located in the zone and all **[construction contractors]** ***businesses*** engaged in **[construction,]** ***acquisition, development, construction, including infrastructure and site preparation,*** reconstruction or renovation of a facility in the zone in the prior calendar year. The list shall include for each business the address, ***the names of the business owners or corporate officers,*** State tax identification number and parcel number and a map of the zone with parcel numbers.

(b) Time.—If the list under subsection (a) is not timely provided to the department, no eligible State tax shall be certified by the department for the prior calendar year.

(c) Audit.—The contracting authority shall hire an independent auditing firm to perform an annual audit verifying all of the following**[:]** ***and shall submit the audit to the Department of Community and Economic Development and the Department of Revenue as well as post on the contracting authority's publicly accessible Internet website:***

(1) The correct amount of the eligible local tax was submitted to the local taxing authorities.

(2) The local taxing authorities transferred the correct amount of eligible local tax to the State Treasurer.

(3) The moneys transferred to the fund were **[properly]** expended ***in accordance with this article***.

(4) The correct amount was requested under section 1812-C(c).

Section 1808-C. Funds.

(a) Notice.—Following the designation of a zone, the contracting authority shall notify the State Treasurer.

(b) Establishment.—Upon receipt of notice under subsection (a), the State Treasurer shall establish for each zone a special fund for the benefit of the contracting authority to be known as the City Revitalization and Improvement Zone Fund ***or Pilot Zone Fund***. Interest income derived from investment of money in **[a]** ***the zone*** fund shall be credited by the State Treasury to the ***zone*** fund.

Section 1809-C. Reports.

(a) State zone report.—**[By]** ***No later than*** June 15 following the baseline year and each year thereafter, each qualified business shall file a report with the department in a form or manner required by the department which includes all of the following:

(1) Amount of each eligible tax which was paid to the Commonwealth by the qualified business in the prior calendar year.

(2) Amount of each eligible tax refund received from the Commonwealth in the prior calendar year by the qualified business.

(b) Local zone report.—**[By]** ***No later than*** June 15 following the baseline year and for each year thereafter, each qualified business shall file a report with the local taxing authority which includes all of the following:

(1) Amount of each eligible tax which was paid to the local taxing authority by the qualified business in the prior calendar year.

(2) Amount of each eligible tax refund received from the local taxing authority in the prior calendar year by the qualified business.

(c) Penalties.—

(1) Failure to file a timely and complete report under subsection (a) or (b) may result in the imposition of a penalty of the lesser of:

(i) ten percent of all eligible tax due the taxing authority in the prior calendar year; or

(ii) one thousand dollars.

(2) A penalty for a violation of subsection (a) shall be imposed, assessed and collected by the department under procedures set forth in Article II. Money collected under this paragraph shall be deposited in the General Fund.

(3) A penalty for a violation of subsection (b) shall be imposed, assessed and collected by the **[political subdivision]** ***city or municipality*** under procedures for imposing penalties under local tax collection laws.

(4) If a local taxing authority imposes the penalty, the money shall be transferred to the State Treasurer for deposit in the ***zone*** fund **[of the contracting authority]**.

Section 1810-C. Calculation of baseline.

(a) Baseline tax ***amount***.—By October 15 following the end of the baseline year and for each year thereafter, the department shall verify the State baseline tax amount ***for each qualified business in a zone*** which consists of the following:

(1) For ***each*** qualified **[businesses that file]** ***business that files*** timely State zone reports under section 1809-C(a), the amount of eligible State tax paid, less ***State*** eligible **[State]** tax refunds.

(2) For ***each*** qualified **[businesses]** ***business*** not included under paragraph (1) but located or partially located in the zone as determined by the department or included in the information received by the department under section 1809-C(a), the amount of ***State*** eligible **[State]** tax paid, less ***State*** eligible **[State]** tax refunds.

(b) Moves and noninclusions.—

(1) This subsection applies to a qualified business that:

(i) moves into a zone from within this Commonwealth after the baseline year; or

(ii) is in a zone but not included in the calculation of the State baseline tax ***amount*** under subsection (a).

(2) A qualified business subject to paragraph (1) shall file a State zone report under section 1809-C following the end of the first full calendar year in which the qualified business conducted business in the zone and each calendar year thereafter. The amount of eligible State tax verified by the department for the qualified business for the **[prior calendar year shall be added to the State baseline tax amount for the zone for the prior calendar year and each year thereafter.]** ***first full calendar year shall be the qualified business' fixed baseline tax amount. The amount added shall remain part of the baseline tax amount each year thereafter until such time as the qualified business ceases to conduct business in the zone, upon which event such amount previously added shall be deducted from the State baseline tax amount.***

(3) **[The calculation under this section may not include the eligible taxes of a qualifying business moving into the zone from outside this Commonwealth.]** ***The following taxes shall be excluded from the baseline tax amount calculation under this section:***

(i) Taxes on business personal property to be utilized at a new facility.

(ii) The eligible taxes of:

(A) A new business.

(B) A qualified business moving into the zone from outside this Commonwealth.

(C) A contractor engaged in acquisition, development or construction, including infrastructure and site preparation, reconstruction or renovation of a facility.

(c) Recalculation.—The department shall not recalculate the baseline of a zone designated prior to the effective date of this subsection to include the hotel occupancy tax imposed under Part V of Article II.

Section 1811-C. Certification.

(a) Amounts.—By the October 15 following the baseline year, and each year thereafter, the department shall do all of the following for ***each qualified business within a zone for*** the prior calendar year:

(1) **[Make]** ***Subject to paragraph (1.1), make*** the following calculation for qualified businesses which file State zone reports under section 1809-C(a), separately for each **[zone]** ***business***:

(i) Subtract:

(A) the amount of eligible State tax refunds received; from

(B) the amount of eligible State tax paid.

(ii) **[Subtract]** ***Except as set forth in subparagraph (iii), subtract***:

(A) the State tax baseline amount for the **[zone]** ***business***; from

(B) the difference under subparagraph (i).

(iii) If the difference under subparagraph (ii) is a negative number, state the difference as zero.

(1.1) Make the following calculation for a qualified business subject to section 1810-C(b)(1) separately for each business:

(i) Subtract:

(A) the amount of State eligible tax refunds received; from

(B) the amount of State eligible tax paid.

(ii) Except as set forth in subparagraph (iii), subtract:

(A) the State tax baseline amount for the business; from

(B) the difference under subparagraph (i).

(iii) If the difference under subparagraph (ii) is a negative number, state the difference as zero.

(2) Certify to the office the **[difference under paragraph (1)(ii)]** *sum derived from adding paragraph (1) to paragraph (1.1).*

(b) Content.—

(1) The certification may include the following:

(i) Adjustment made to timely filed zone reports by the department for *State* eligible **[State]** tax actually paid by a qualified business in the prior calendar year.

(ii) **[Eligible State]** *State eligible* tax refunds paid to a qualified business in the zone in a prior calendar year.

(iii) State tax penalties paid by a qualified business in the prior year under section 1809-C(c).

(2) The certification shall not include the following:

(i) Tax paid by a qualified business that did not file a timely State zone report under section 1809-C(a).

(ii) Tax paid by a qualified business whose tax was not included in the State tax baseline amount calculation under section 1810-C.

(iii) Tax paid by a qualified business not appearing on a timely filed list under section 1807-C(a).

(c) Submission.—The following shall apply:

(1) An entity collecting **[an]** *a local* eligible **[local]** tax within the zone *for each qualified business which files a zone report under section 1809-C(b)* shall, by October 15 following the baseline year and each year thereafter, submit the following to the State Treasurer for transfer to the fund:

(i) **[the]** *The local* eligible **[local]** tax collected in the prior calendar year**[;]**.

(ii) **[less]** *Less* the amount of *local* eligible **[local]** tax refunds issued in the prior calendar year**[; and]**.

(iii) **[less]** *Less* the amount of local baseline tax **[for the zone.]** *amount.*

(iv) If the difference under subparagraph (iii) is a negative number, state the difference as zero.

(2) The information under this subsection shall also be certified by the local taxing authority to the Department of Community and Economic Development, the office and the department.

(d) Confidential report.—No later than October 15 of the baseline year and each year thereafter, the department and the local taxing authority shall provide the contracting authority with a report detailing the baseline tax amount for each qualified business and the amount of eligible tax paid by each qualified business. The report shall be confidential and shall not

be publicly accessible under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Section 1812-C. Transfers.

(a) Office.—Within ten days of receiving the certification from the department under section 1811-C, the office shall direct the State Treasurer to transfer the amount of certified eligible State zone tax from the General Fund to each fund of a contracting authority.

(b) State Treasurer.—Within ten days of receiving direction under subsection (a), the State Treasurer shall pay into the fund the amount directed under subsection (a) until bonds issued to finance the ***acquisition, development,*** construction, including related infrastructure and site preparation, reconstruction or renovation of a facility or other eligible project in the zone, are retired.

(c) Notification.—The following shall apply:

(1) If the transfers under subsection (a) and section 1811-C(c) are insufficient to make payments on the bonds issued under section 1813-C(a)(1) for the calendar year when the transfers are made, the contracting authority shall notify the Department of Community and Economic Development, the office and the department of the amount of ***the deficiency and may request the*** additional money necessary to make payments on the bonds.

(2) The notification under paragraph (1) must be accompanied by a detailed account of the contracting authority's expenditures and the calculation which resulted in the request for additional money. The Department of Community and Economic Development, the office or the department may request additional information from the contracting authority and shall jointly verify the proper amount of money necessary to make the payments on the bonds.

(3) Notwithstanding 53 Pa.C.S. § 5607(e) (relating to purposes and powers), within 90 days of the date of the notification request, the office shall direct the State Treasurer to establish a restricted account within the General Fund. The office shall direct the State Treasurer to transfer the amount verified under paragraph (2) from the General Fund to the restricted account for the use of the contracting authority to make payments on the bonds issued under section 1813-C(a)(1).

(4) Money transferred under paragraph (3):

(i) shall be limited to 50% of the State tax baseline amount for the calendar year prior to the date the amount is verified under paragraph (2), not to exceed **[$10,000,000]** ***$7,500,000***; and

(ii) must occur in the first seven calendar years following the baseline year.

(4.1) Under extraordinary circumstances, a contracting authority may request money in excess of the limitations in paragraph (4)(i). The Department of Community and Economic Development, the office and the department shall determine whether the circumstances merit additional money and the amount to be transferred. The money shall be transferred under the procedure under this section.

(5) Money transferred under paragraph (3) shall be repaid to the General Fund by the contracting authority. If money transferred under

paragraph (3) is not repaid to the General Fund by the contracting authority **[by the date of the final payment on the bonds originally issued under section 1813-C(a)(1), the city or county which established]** ***within 12 calendar years following the baseline year, the city, municipality or home rule county which established or designated*** the contracting authority shall pay the money not repaid to the General Fund plus an additional penalty of 10% of the amount outstanding on the date of the final payment on the bonds originally issued under section 1813-C(a)(1).

Section 1813-C. Restrictions.

(a) Utilization.—**[If the use was approved in an application filed under section 1804-C, money]** ***Money*** transferred under section 1812-C may only be utilized for the following:

(1) Payment of debt service on bonds issued ***or refinanced*** for the ***acquisition, development,*** construction, including related infrastructure and site preparation, reconstruction **[or],** renovation ***or refinancing*** of a facility in the zone ***and normal and customary fees for professional services associated with the issuance or refinance of the bonds.***

(2) **[Construction]** ***Acquisition, development, construction,*** including related infrastructure and site preparation, reconstruction **[or],** renovation ***or refinancing*** of all or a part of a facility.

(3) Replenishment of amounts in debt service reserve funds established to pay debt service on bonds.

(4) Employment of an independent auditing firm to perform the duties under section 1807-C(c).

(5) Improvement or development of all or part of a zone.

(6) Improvement projects, including fixtures and equipment for a facility owned, ***in whole or in part,*** by a public authority.

(7) Payment or reimbursement of reasonable administrative, auditing and compliance services required by this article. Reasonable administrative costs may not exceed 5% of the money transferred under section 1812-C. For purposes of this paragraph, professional services shall not be considered administrative costs.

(b) Prohibition.—Money transferred under section 1812-C may not be utilized for maintenance or repair of a facility.

(c) Excess money.—

(1) If the amount of money transferred to the fund under sections 1811-C(c) and 1812-C in any one calendar year exceeds the money utilized under this section in that calendar year, the contracting authority shall submit by **[January]** ***April*** 15 following the end of the calendar year the excess money to the State Treasurer for deposit into the General Fund.

(2) At the time of submission to the State Treasurer, the contracting authority shall submit to the State Treasurer, the office and the department a detailed accounting of the calculation resulting in the excess money.

(3) The excess money shall be credited to the contracting authority and applied to the amount required to be repaid under section 1812-C(c)(5) until there is full repayment.

(d) Matching funds.—

(1) The amount of money transferred from the fund utilized for the ***acquisition, development,*** construction, including related site preparation and infrastructure, reconstruction or renovation of facilities, ***or normal and customary fees for professional services*** shall be matched by private, ***Federal or local*** money at a ratio of five fund dollars to one private, ***Federal or local*** dollar. ***The contracting authority shall verify the private, Federal or local match for a project at the time of the bond and report proof of the match to the agencies. All of the following shall be deemed private money:***

(i) Equity.

(ii) Private developer debt and financing.

(iii) Soft costs associated with land development.

(iv) Costs of professional services associated with development.

(v) Costs associated with improvements of the parcel.

(vi) Costs of land acquisition and real estate transactions.

(1.1) Private, Federal or local dollars invested in any single year or multiple years may be amortized over the term of the private or public financing provided to the project in order to meet the matching fund ratio of five fund dollars to one private, Federal or local dollar invested in the project.

(2) By April 1 following the baseline year and for each year thereafter, the contracting authority shall file an annual report with the Department of Community and Economic Development, the office and the department that contains a detailed account of the fund money expenditures and the private, ***Federal or local*** money expenditures and a calculation of the ratio in paragraph (1) for the prior calendar year. **[The agencies shall determine whether sufficient private money was utilized.]**

(3) If it is determined that insufficient private, ***Federal or local*** money was utilized under paragraph (1), the amount of fund money utilized under paragraph (1) in the prior calendar year shall be deducted from the next transfer of the fund.

Section 1814-C. Transfer of property.

(a) Property.—**[Portions of a zone where a facility has not been constructed, reconstructed or renovated using money under this article may be transferred out of the zone. Additional acreage, not to exceed the acreage transferred out of the zone, may be added to the zone.]** ***Parcels in a zone where a facility has not been constructed, reconstructed or renovated using money under this article may be transferred out of the zone, if the contracting authority provides a notarized certification, confirmed in the annual audit required under section 1807-C(c), that no fund dollars were used on the property. Additional acreage, not to exceed the acreage transferred out of the zone, may be simultaneously added to the zone.***

(a.1) Public meeting.—Prior to requesting approval, the contracting authority shall hold a public meeting to consider the proposed transfer. At the meeting, any interested party may attend and offer comment on the proposal change.

(a.2) Infeasibility.—

(1) If no activity in furtherance of development has taken place on the parcel within eight years of the enactment of this section or designation of the zone, whichever occurs later, the contracting authority may conduct a public hearing on the feasibility of the parcel to continue with the designation pursuant to a request from the city or municipality where the parcel sits. The hearing shall be held and notice provided to the owner of the parcel in accordance with section 908 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. For purposes of this section, activity shall include, but not be limited to, construction, building, renovation, reconstruction, site preparation and site development.

(2) If the contracting authority determines that the project is no longer feasible, the contracting authority shall issue a written opinion within 45 days of the hearing setting forth the reasons supporting the determination and verifying that no activity has taken place. The decision may be appealed in accordance with section 1001-A of the Pennsylvania Municipalities Planning Code.

(b) Approval.—A transfer under **[subsection (a)]** *subsections (a) and (a.2)* must be approved by the Department of Community and Economic Development in consultation with the office and the department.

Section 1816-C. Commonwealth pledges.

(a) Pledge.—If and to the extent the contracting authority pledges amounts required to be transferred to its fund under section 1812-C for payment of bonds **[issued by the contracting authority, until all bonds secured by the pledge of the contracting authority, together with interest on the bonds, are fully paid or provided for,]** *until all of the bonds, together with interest, are fully paid or provided for,* the Commonwealth pledges to and agrees with any person, firm, corporation or government agency, in this Commonwealth or elsewhere, and pledges to and agrees with any Federal agency subscribing to or acquiring the bonds **[of the contracting authority]** that the Commonwealth itself will not nor will it authorize any government entity to do any of the following:

(1) Abolish or reduce the size of the zone*, or transfer zone designation from a parcel contrary to section 1814-C*.

(2) Amend or repeal section 1810-C **[or]**, 1811-C*, 1812-C, 1813-C, 1814-C, 1815-C or this section to the detriment of the issuer of any bonds*.

(3) Limit or alter the rights vested in the contracting authority in a manner inconsistent with the obligations of the contracting authority with respect to the bonds issued by the contracting authority.

(4) Impair revenue to be paid under this article to the contracting authority necessary to pay debt service on bonds.

(b) Limitation.—Nothing in this section shall limit the authority of the Commonwealth or a political subdivision government entity to change the rate, base or subject of a specific tax or to repeal or enact any tax.

Section 1818-C. Guidelines.

[By October 31, 2013, the] *The* Department of Community and Economic Development, the office and the department shall develop*, update* and publish guidelines necessary to implement this article.

Section 38. The act is amended by adding a section to read:

Section 1819-C. Review.

(a) Department of Community and Economic Development.—By December 31, 2021, the Department of Community and Economic Development shall, in cooperation with the office and the department, complete a review and analysis of all active zones. The review shall include an analysis of:

(1) The number of new jobs created.

(2) The cost to and impact of the zones on the Commonwealth and the revenue of the Commonwealth.

(3) Economic development to the city, or municipality in a zone and to the Commonwealth.

(4) Any negative impact on adjacent municipalities or the Commonwealth.

(b) Other review.—By June 30, 2021, the Independent Fiscal Office shall complete a review and analysis of all zones. The review shall include an analysis of the factors under subsection (a).

(c) Posting.—Reviews under subsections (a) and (b) shall be posted on the Department of Community and Economic Development's publicly accessible Internet website as well as the Independent Fiscal Office's publicly accessible Internet website.

Section 38.1. The act is amended by adding an article to read:

ARTICLE XVIII-G
MANUFACTURING AND INVESTMENT TAX CREDIT

PART I
MANUFACTURING TAX CREDIT

Section 1801-G. Definitions.

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

"Annual taxable payroll." The total amount of wages paid by an employer for the base year or year one, as applicable, from which personal income tax under Article III is withheld.

"Base year." The four calendar quarters preceding the start date.

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

"Manufacturing tax credit." A tax credit for which the department has issued a certificate under this part.

"New job." A full-time job created in year one which has an average wage at least equal to the county average wage where the job is located and which includes employer-provided health benefits.

"Pass-through entity."

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

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

(3) An unincorporated entity subject to section 307.21.

"Qualified tax liability." A taxpayer's tax liability under Article III, IV, VI, VII, VIII, IX, XI or XV.

"Start date." The first day of the calendar quarter in which an application is submitted to the department unless the applicant requests and the department agrees to a later start date.

"Taxpayer." An entity that is engaged in the mechanical, physical or chemical transformation of materials, substances or components into new products that are creations of new items of tangible personal property for sale.

"Wages." Remuneration paid by an employer to an individual with respect to the individual's employment.

"Year one." The four calendar quarters immediately following the start date.

Section 1802-G. Eligibility.

In order to be eligible to receive a manufacturing tax credit, a taxpayer must demonstrate to the department the following:

(1) The ability of the taxpayer to create an increase in the taxpayer's annual taxable payroll in year one by at least $1,000,000 above the amount in the base year solely through the creation of new jobs and to maintain the increase for a period of at least five years from the start date.

(2) The ability to maintain new jobs for a period of at least five years from the start date.

(3) The intent to maintain existing operations in this Commonwealth for a period of at least five years from the start date.

Section 1803-G. Procedure.

(a) Application.—A taxpayer applying to claim a manufacturing tax credit must complete and submit to the department a manufacturing tax credit application on a form and in a manner as determined by the department.

(b) Creation of new jobs.—In order to receive a manufacturing tax credit, the taxpayer must agree to create in year one new jobs that increase the taxpayer's annual taxable payroll above the base year annual taxable payroll by $1,000,000. The taxpayer must agree to retain the new jobs and increase in payroll for at least five years from the start date.

(c) Approval.—If the department approves the taxpayer's application, the department and the taxpayer shall execute a commitment letter containing the following:

(1) A description of the new jobs created.

(2) The number of new jobs to be created.

(3) The amount of private capital investment in the creation of new jobs.

(4) The increase in year one of the annual taxable payroll for new jobs above the base year amount of annual taxable payroll.

(5) The maximum manufacturing tax credit amount the taxpayer may claim.

(6) A signed statement that the taxpayer intends to maintain existing operations in this Commonwealth for at least five years from the start date.

(7) Any other information as the department deems appropriate.

(d) Commitment letter.—After a commitment letter has been signed by both the Commonwealth and the taxpayer, the taxpayer must increase the annual taxable payroll in year one by at least $1,000,000 above the base year amount from the creation of new jobs up to the amount specified in the commitment letter. If the taxpayer does not increase the annual taxable payroll as provided under this subsection, the commitment letter shall be revoked and deemed to be null and void.

Section 1804-G. Manufacturing tax credit.

(a) Maximum amount.—The department may award a manufacturing tax credit of up to 5% of the taxpayer's increase in annual taxable payroll if the annual taxable payroll increases in year one by at least $1,000,000 above the base year amount from the creation of new jobs up to the amount specified in the commitment letter.

(b) Determination.—The annual taxable payroll in year one for a new job shall be the sum of the amount of annual taxable payroll in year one for the new jobs created above the taxable payroll in the base year.

(c) Certificate.—After verification by the department that the taxpayer has increased the annual taxable payroll in year one by at least $1,000,000 above the base year amount from the creation of new jobs up to the amount specified and any other conditions required by the department and specified in the commitment letter, the taxpayer shall receive a manufacturing tax credit certificate and filing information.

(d) Applicable taxes.—A taxpayer may apply the manufacturing tax credit to 100% of the taxpayer's qualified tax liability.

(e) Term.—A taxpayer may claim the manufacturing tax credit for a period determined by the department, not to exceed the earlier of:

(1) five years from the date the taxpayer receives the manufacturing tax credit certificate; or

(2) six years from the start date.

(f) Availability.—A manufacturing tax credit shall be made available by the department on a first-come, first-served basis.

(g) Limitation.—For each fiscal year beginning after June 30, 2017, $4,000,000 in manufacturing tax credits shall be made available to the department and may be awarded by the department in accordance with this part. In any fiscal year, the department may reissue, assign or award prior fiscal year manufacturing tax credits which have been recaptured under section 1808-G(a) or (b) and may award prior fiscal year manufacturing tax credits not previously issued.

Section 1805-G. Limitations.

The following apply to manufacturing tax credits:

(1) If the taxpayer cannot use the entire amount of the manufacturing tax credit for the taxable year in which the manufacturing tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for the taxable years. Each time the manufacturing tax credit is carried over to a succeeding taxable year, the manufacturing tax credit shall be reduced by the amount of the manufacturing tax credit used as a credit during the immediately

preceding taxable year. The manufacturing tax credit may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(2) A manufacturing tax credit approved by the department in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the manufacturing tax credit can be applied against any tax liability under paragraph (1).

(3) A taxpayer shall not be entitled to carry back or obtain a refund of all or any portion of an unused manufacturing tax credit granted to the taxpayer under this part.

Section 1806-G. Sale or assignment.

(a) Application.—A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a manufacturing tax credit granted to the taxpayer. The following shall apply:

(1) The department and the Department of Revenue shall jointly issue guidelines for the approval of applications under this paragraph.

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

(3) Notwithstanding any other provision of law, the Department of Revenue must settle, assess or determine the tax of an applicant under this paragraph within 90 days of the filing of each required final return or report in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) Use by purchaser or assignee.—The purchaser or assignee of all or a portion of a manufacturing tax credit under subsection (a) must immediately claim the credit in the taxable year in which the purchase or assignment is made.

(1) The amount of the manufacturing tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of the qualified tax liability for the taxable year.

(2) The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the manufacturing tax credit.

(3) The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the manufacturing tax credit in compliance with procedures specified by the Department of Revenue.

Section 1807-G. Pass-through entity.

(a) General rule.—If a pass-through entity has any unused tax credits under section 1805-G, the entity may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to shareholders, members or partners in proportion or the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Limitation.—A pass-through entity and a shareholder, member or partner of a pass-through entity may not claim the credit under subsection (a) for the same new job.

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

Section 1808-G. Penalties.

(a) Failure to maintain operations.—A taxpayer which receives a manufacturing tax credit and fails to maintain existing operations related to the manufacturing tax credits in this Commonwealth for a period of at least five years from the start date must refund to the Commonwealth the total amount of manufacturing tax credits granted. The Department of Revenue may issue an assessment, including interest, additions and penalties, for the total amount of each manufacturing tax credit to be refunded to the Commonwealth.

(b) Failure to maintain jobs.—A taxpayer which receives a manufacturing tax credit and fails to maintain new jobs along with the increase in taxable payroll for a period of at least five years from the start date must refund to the Commonwealth the total amount of manufacturing tax credits granted. The Department of Revenue may issue an assessment, including interest, additions and penalties, for the total amount of manufacturing tax credits to be refunded to the Commonwealth.

(c) Waiver.—The department may waive the penalties under subsections (a) and (b) if it is determined that a company's existing operations were not maintained or the new jobs and increase to payroll were not created because of circumstances beyond the company's control. Circumstances shall include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

Section 1809-G. Guidelines.

The department shall develop and publish guidelines necessary to implement this part.

PART II
RURAL JOBS AND INVESTMENT TAX CREDIT

Section 1821-G. Scope of part.

This part relates to the Rural Jobs and Investment Tax Credit.

Section 1822-G. Definitions.

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

"Affiliate." An entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another entity. For the purposes of this part, an entity is "controlled by" another entity if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control

over the day-to-day operations of the controlled entity by contract or by law.

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article VII, VIII, IX or XV, the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or amounts imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

"Closing date." The date on which a rural growth fund has collected all of the amounts specified by section 1825-G.

"Credit-eligible capital contribution." An investment of cash by a business firm in a rural growth fund that equals the amount specified on a tax credit certificate issued by the department under section 1829-G. The investment shall purchase an equity interest in the rural growth fund or purchase, at par value or premium, a debt instrument that has a maturity date at least five years from the closing date.

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

"Investment authority." The amount stated on the notice issued under section 1824-G approving the rural growth fund.

"Principal business operations." The place or places where at least 60% of a rural business' employees work or where employees that are paid at least 60% of the business' payroll work. An out-of-State business that has agreed to relocate employees using the proceeds of a rural growth investment to establish principal business operations in a rural area in this Commonwealth shall be deemed to have the principal business operations in this new location if the business satisfies this definition within 180 days after receiving the rural growth investment, unless the department agrees to a later date.

"Qualified tax liability." The liability for taxes imposed under Article VII, VIII, IX or XV, the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or amounts imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

"Rural area." Either of the following:

(1) An area of the Commonwealth that is not in:

(i) A city with a population of more than 50,000 according to the latest decennial census of the United States.

(ii) An urbanized area contiguous and adjacent to a city that has a population of more than 50,000 inhabitants.

(2) An area determined to be rural in character by the Under Secretary for Rural Development within the United States Department of Agriculture.

"Rural business." A business that, at the time of the initial investment in the business by a rural growth fund, meets the following conditions:

(1) Has fewer than 250 employees and not more than $15,000,000 in net income as determined by generally accepted accounting principles for the preceding calendar year.

(2) Has principal business operations in one or more rural areas in this Commonwealth.

(3) Is engaged in industries related to manufacturing, plant sciences, services or technology or, if not engaged in those industries, the department makes a determination that the investment will be highly beneficial to the economic growth of this Commonwealth.

"Rural growth fund." An entity approved by the department under section 1824-G.

"Rural growth investment." A capital or equity investment in a rural business or any loan to a rural business with a stated maturity at least one year after the date of issuance.

"Tax credit." The Rural Jobs and Investment Tax Credit provided under this part.

Section 1823-G. Rural Jobs and Investment Tax Credit Program.

The Rural Jobs and Investment Tax Credit Program is established in the department to attract capital to:

(1) Stimulate business development in rural areas.

(2) Retain and attract new rural business and industry to the Commonwealth.

(3) Create good-paying rural jobs.

(4) Stimulate growth in rural businesses that are prepared to make impactful economic development investments.

Section 1824-G. Rural growth funds.

(a) Application.—Beginning on the effective date of this section, an application to qualify as a rural growth fund must be submitted on a form and in a manner as required by the department.

(b) Information.—An application to qualify as a rural growth fund shall include all of the following:

(1) The total investment authority sought by the applicant under the business plan.

(2) Documents and other evidence sufficient to prove to the satisfaction of the department that the applicant meets all of the following criteria:

(i) The applicant or an affiliate of the applicant is licensed as a rural business investment company under the Consolidated Farm and Rural Development Act (Public Law 87-128, 75 Stat. 307) or as a small business investment company under the Small Business Investment Act of 1958 (Public Law 85-699, 72 Stat. 689).

(ii) Evidence that as of the date the application is submitted, the applicant or affiliates of the applicant have invested at least $100,000,000 in nonpublic companies located in rural areas of this Commonwealth or other states.

(3) An estimate of the number of jobs that will be created or retained in this Commonwealth as a result of the applicant's rural growth investments.

(4) A business plan that includes a revenue impact assessment projecting State and local tax revenue to be generated by the applicant's proposed rural growth investments prepared by a nationally recognized third-party independent economic forecasting firm using a dynamic

economic forecasting model that analyzes the applicant's business plan over the 10 years following the date the application is submitted to the department.

(5) A signed affidavit from each investor stating the amount of credit-eligible capital contributions each business firm commits to make.

(6) A nonrefundable application fee of $500.

(c) Review of applications.—The department shall review applications received from rural growth funds under this section. Subject to the limitation in subsection (f), the department shall make allocations of investment authority for approved applications in the order in which the applications are received. Applications received on the same day shall be deemed to have been received simultaneously. If requests for investment authority on approved applications exceed the limitation in subsection (f), the department shall reduce the investment authority and the credit-eligible capital contributions proportionally based upon the amount of investment authority sought in the application for each approved application as necessary to not exceed the limitation in subsection (f).

(d) Notice of approval or disapproval.—

(1) Within 60 days after receipt of an application, the department shall notify the applicant of its approval or disapproval as a rural growth fund under this part.

(2) A notice of approval shall specify the amount of the applicant's investment authority as determined by the department after reviewing the information submitted in accordance with subsection (b) and the amount of credit-eligible contribution authority allocated to each business firm that submitted an affidavit in the application.

(3) If the application is disapproved, the notice of disapproval shall include the reasons for disapproval.

(4) An applicant may resubmit the application within 30 days after receipt of a notice of disapproval.

(e) Request for determination.—A rural growth fund, before making a rural growth investment, may request from the department a written opinion as to whether the business in which the growth fund proposed to invest is a rural business. The department shall notify the rural growth fund of the determination within 15 days after receipt of the request. If the department fails to notify a rural growth fund of the determination within 15 days, the business in which the growth fund proposes to invest shall be considered a rural business.

(f) Limitation.—The department may not approve more than $100,000,000 in investment authority under this part.

Section 1825-G. Requirements.

(a) Collections.—Upon receiving approval under section 1824-G, a rural growth fund must do all of the following within 60 days:

(1) Collect the credit-eligible capital contributions from each business firm issued a tax credit certificate under section 1829-G.

(2) Collect one or more investments of cash that, when added to the contributions collected under paragraph (1), equal the fund's investment authority. At least 10% of the fund's investment authority

shall be comprised of equity investments contributed by affiliates of the rural growth fund, including employees, officers and directors of the affiliates.

(b) Documentation.—Within 65 days of approval under section 1824-G, a rural growth fund must provide to the department documentation sufficient to prove that the amounts specified in subsection (a) have been collected.

Section 1826-G. Rural growth fund failure to comply.

(a) Revocation.—If a rural growth fund fails to meet the requirements of section 1825-G, the fund's approval shall be revoked, and, the corresponding investment authority and credit-eligible capital contributions may not be included in determining the limits on total investment authority and credit-eligible capital contributions prescribed in sections 1824-G(f) and 1828-G(c), respectively.

(b) Reallocation.—Any investment authority and credit-eligible capital contributions related to a rural growth fund whose approval has been revoked under subsection (a) shall be reallocated by awarding the investment authority related to a revocation on a pro rata basis to each rural growth fund that was awarded less than the requested investment authority under section 1824-G.

(c) Discretion.—A rural growth fund may allocate any investment authority reallocated to it under subsection (b) to its investor business firms at its discretion.

(d) Unallocated investment authority.—Subsequent to the reallocation in subsection (b), any remaining investment authority may be awarded by the department to new applicants.

Section 1827-G. Reporting obligations.

(a) Initial report.—Each rural growth fund shall submit a report to the department on or before the fifth business day after the second anniversary of the closing date. The report shall provide documentation as to the rural growth fund's rural growth investments and include the following information:

(1) A bank statement evidencing each rural growth investment.

(2) The name, location and industry of each business receiving a rural growth investment, including either the determination letter issued by the department under section 1824-G(e) or other evidence that the business qualified as a rural business at the time the investment was made.

(3) The number of jobs created or retained as a result of the fund's rural growth investments as of the last day of the preceding calendar year.

(4) Any other information required by the department.

(b) Annual report.—No later than March 1 of each year following the year in which the report required under subsection (a) is due, the rural growth fund shall submit an annual report to the department that includes the following information:

(1) The number of jobs created or retained as a result of the fund's rural growth investments as of the last day of the preceding calendar year.

(2) The average annual salary of the jobs reported in paragraph (1).

(3) Any other information required by the department.

Section 1828-G. Business firms.

(a) General rule.—To qualify for a tax credit, credit-eligible capital contributions made by a business firm to a rural growth fund must be used by the rural growth fund for rural growth investments in a rural business under this part.

(b) Submission.—In connection with the documentation submitted under section 1825-G(b), a rural growth fund shall submit, on behalf of its business firm investors, on a form and in a manner required by the department, a description of credit-eligible capital contributions for approval by the department. The submission shall include for each credit-eligible capital contribution:

(1) The amount of the credit-eligible capital contribution.

(2) The name of the rural growth fund to which the credit-eligible capital contribution was made.

(3) The closing date.

(4) Any other information required by the department.

(c) Limitation.—The department may not approve more than $4,000,000 in credit-eligible capital contributions under this part.

Section 1829-G. Tax credit certificates.

(a) Application.—

(1) A business firm may apply to the department for a tax credit certificate under this section for the tax credits that are earned and vested as a result of the business firm's credit-eligible capital contribution.

(2) The application shall be on a form required by the department and shall include the amount of the business firm's credit-eligible capital contribution approved under section 1828-G(b).

(3) The application shall be filed no later than February 1 for credit-eligible capital contributions made in the preceding calendar year.

(b) Review, recommendation and approval.—

(1) The department shall review the credit-eligible capital contributions, verify that the credit-eligible capital contributions were made to an approved rural growth fund with adequate investment authority and approve or disapprove the application within 30 days of receipt of the application for review.

(2) If the department has approved the application, it shall award the business firm a tax credit certificate by April 1.

(2.1) A tax credit awarded under this section shall not exceed 90% of the credit-eligible capital contributions made by a business firm.

(3) In awarding tax credit certificates under this part, the department:

(i) Beginning with fiscal year 2017-2018, may not award tax credit certificates that would result in the utilization of more than $1,000,000 in tax credits in any fiscal year, except for tax credits carried forward.

(ii) May not award more than $4,000,000 in tax credit certificates, in the aggregate, under this part.

Section 1830-G. Claiming the tax credit.

(a) Presentation.—Beginning July 1, 2017, upon presenting a tax credit certificate to the Department of Revenue, a business firm may claim a tax credit of up to 25% of the amount awarded under section 1829-G for each of the taxable years that includes the third, fourth, fifth and sixth anniversaries of the closing date, exclusive of any tax credit amounts carried over under section 1831-G(b).

(b) Allowance.—The Department of Revenue shall allow a tax credit against any tax due under Article VII, VIII, IX or XV, the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, amounts imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, or any tax substituted in lieu of one of the taxes under this subsection.

Section 1831-G. Restrictions on tax credit utilization.

(a) Limitation.—A tax credit to be applied in any one year may not exceed the qualified tax liability of the business firm or affiliate to which a tax credit was sold or assigned for that taxable year.

(b) Carryover.—A tax credit not used in the period the credit is first eligible for use under subsection (a) may be carried over for the next five succeeding calendar years until the full tax credit has been allowed.

Section 1832-G. Prohibitions.

(a) Sale or assignment.—A business firm may not sell or assign, in whole or in part, a tax credit awarded under this part other than to an affiliate having a qualified tax liability.

(b) Carryback or refund.—A business firm may not carry back or obtain a refund of an unused tax credit.

(c) Business activities.—Neither a rural growth fund nor any business firm that invests in the rural growth fund shall be an affiliate of or have a pecuniary interest in a rural business that receives a rural growth investment from the rural growth fund prior to the fund's initial rural growth investment in the rural business.

Section 1833-G. Revocation of tax credit certificates.

(a) Revocation.—The department shall revoke a tax credit certificate awarded under section 1829-G if any of the following occur with respect to a rural growth fund before the fund exits the program under section 1834-G:

(1) The rural growth fund in which the credit-eligible capital contribution was made does not invest all of its investment authority in rural growth investments in this Commonwealth within two years of the closing date with at least 25% of its investment authority initially invested in rural businesses engaged in manufacturing.

(2) The rural growth fund, after satisfying the conditions of paragraph (1), fails to maintain rural growth investments equal to 100% of its investment authority until the sixth anniversary of the closing date. For the purposes of this paragraph, an investment is "maintained" even if the investment is sold or repaid so long as the

rural growth fund reinvests an amount equal to the capital returned or recovered by the fund from the original investment, exclusive of any profits realized, in other rural growth investments in this Commonwealth within 12 months of the receipt of the capital. Amounts received periodically by a rural growth fund shall be treated as continually invested in rural growth investments if the amounts are reinvested in one or more rural growth investments by the end of the following calendar year. A rural growth fund is not required to reinvest capital returned from rural growth investments after the fifth anniversary of the closing date, and the rural growth investments shall be considered held continuously by the rural growth fund through the sixth anniversary of the closing date.

(3) The rural growth fund, before exiting the program in accordance with section 1834-G, makes a distribution or payment that results in the rural growth fund having less than 100% of its investment authority invested in rural growth investments in this Commonwealth or available for investment in rural growth investments and held in cash and other marketable securities.

(4) The rural growth fund invests more than 20% of its investment authority in the same rural business, including amounts invested in affiliates of the rural business.

(5) The rural growth fund makes a rural growth investment in a rural business that directly or indirectly through an affiliate owns, has the right to acquire an ownership interest, makes a loan to or makes an investment in the rural growth fund, an affiliate of the rural growth fund or an investor in the rural growth fund. This paragraph does not apply to investments in publicly traded securities by a rural business or an owner or affiliate of a rural business. For purposes of this paragraph, a rural growth fund shall not be considered an affiliate of a rural business solely as a result of its rural growth investment.

(b) Notification.—Before revoking one or more tax credit certificates under this section, the department shall notify the rural growth fund of the reasons for the pending revocation. The rural growth fund shall have 90 days from the date the notice was made to correct any violation outlined in the notice to the satisfaction of the department and avoid revocation of a tax credit certificate.

(c) Reallocation.—If a tax credit certificate is revoked under this section, the associated investment authority and credit-eligible capital contributions may not count toward the limit on total investment authority and credit-eligible capital contributions allowed under this part. The department shall first reallocate investment authority on a pro rata basis to each rural growth fund that was allocated less than the requested investment authority under section 1824-G. The department may then allocate any remaining investment authority to new applicants.

Section 1834-G. Exit.

(a) Application for exit.—On or after the sixth anniversary of the closing date, a rural growth fund may apply to the department to exit the Rural Jobs and Investment Tax Credit Program and no longer be subject to regulation under this part. The department shall respond to the

application within 30 days after receipt. In evaluating the application, the fact that no tax credit certificates have been revoked and that the rural growth fund has not received a notice of revocation that has not been cured under section 1833-G(b) shall be sufficient evidence to show that the rural growth fund is eligible for exit. The department may not deny an application submitted under this subsection without reasonable cause. If the application is denied, the department shall issue a notice which shall include the reasons for the denial.

(b) Exit.—The department may not revoke a tax credit certificate after a rural growth fund exits from the Rural Jobs and Investment Tax Credit Program under this section.

Section 1835-G. Duties of department.

(a) Rules and regulations.—The department may promulgate rules and regulations to administer this part.

(b) Reports by department.—The department shall provide a report listing all applications received for tax credit certificates and the disposition of the applications in each fiscal year to the General Assembly by October 1 of the following fiscal year. The department's report shall include all business firms approved for a tax credit certificate and the amount of tax credit certificates approved for each business firm.

(c) Confidentiality.—Notwithstanding any law providing for the confidentiality of tax records, the information in the report under subsection (b) shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

Section 38.2. The definition of "neighborhood organization" in section 1902-A of the act, amended May 7, 1997 (P.L.85, No.7), is amended and the section is amended by adding definitions to read:

Section 1902-A. Definitions.—The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Affordable housing." Housing that serves median-income, low-income, very low-income and extremely low-income families as those terms are defined in section 3 of the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) based on the area median income as determined by the Federal Housing Finance Agency.

* * *

"Domestic violence or veterans' housing assistance." Furnishing financial assistance, labor, material and technical advice to aid in the acquisition, construction, renovation or rehabilitation of real property in an impoverished area that will be used to provide housing for victims of domestic violence or veterans.

* * *

"Neighborhood organization." Any organization performing community services, offering neighborhood assistance or providing job training, ***affordable housing, domestic violence or veterans' housing assistance,*** education or crime prevention in an impoverished area, holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26

U.S.C. § 1 et seq.) and approved by the Department of Community **[Affairs]** ***and Economic Development.***

* * *

Section 38.3. Section 1904-A of the act, amended July 25, 2007 (P.L.373, No.55) and July 2, 2012 (P.L.751, No.85), is amended to read:

Section 1904-A. Tax Credit.—(a) Any business firm which engages or contributes to a neighborhood organization which engages in the activities of providing neighborhood assistance, comprehensive service projects, ***affordable housing, domestic violence or veterans' housing assistance,*** job training or education for individuals, community services or crime prevention in an impoverished area or private company which makes qualified investment to rehabilitate, expand or improve buildings or land located within portions of impoverished areas which have been designated as enterprise zones shall receive a tax credit as provided in section 1905-A if the secretary annually approves the proposal of such business firm or private company. The proposal shall set forth the program to be conducted, the impoverished area selected, the estimated amount to be invested in the program and the plans for implementing the program.

(b) The secretary is hereby authorized to promulgate rules and regulations for the approval or disapproval of such proposals by business firms or private companies. The secretary shall provide a report listing of all applications received and their disposition in each fiscal year to the General Assembly by October 1 of the following fiscal year. The secretary's report shall include all taxpayers utilizing the credit and the amount of credits approved, sold or assigned. Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the secretary's Internet website.

(b.1) The secretary shall take into special consideration, when approving applications for neighborhood assistance tax credits, applications which involve:

(1) multiple projects in various markets throughout this Commonwealth; and

(2) charitable food programs.

(b.2) The secretary, in cooperation with the Department of Agriculture, shall promulgate guidelines for the approval or disapproval of applications for tax credits by business firms that contribute food or money to charitable food programs.

(b.3) The secretary, in cooperation with the Department of Military and Veterans Affairs, shall promulgate guidelines for the approval or disapproval for tax credits by business firms that contribute to veterans' housing assistance.

(c) The total amount of tax credit granted for programs approved under this act shall not exceed eighteen million dollars ($18,000,000) of tax credit in any fiscal year.

(d) A taxpayer, upon application to and approval by the Department of Community and Economic Development, may sell or assign, in whole or in part, a neighborhood assistance tax credit granted to the business firm under this article if no claim for allowance of the credit is filed within one year

from the date the credit is granted by the Department of Revenue under section 1905-A. The Department of Community and Economic Development and the Department of Revenue shall jointly promulgate guidelines for the approval of applications under this subsection.

(e) The purchaser or assignee of a neighborhood assistance tax credit under subsection (d) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee may not carry over, carry back, obtain a refund of or sell or assign the neighborhood assistance tax credit. The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the neighborhood assistance tax credit in compliance with procedures specified by the Department of Revenue.

(f) The neighborhood assistance tax credit approved by the Department of Community and Economic Development shall be applied against the business firm's tax liability for the taxes under section 1905-A for the current taxable year as of the date on which the credit was approved before the neighborhood assistance tax credit may be carried over, sold or assigned.

Section 38.4. Section 1905-A of the act, amended July 25, 2007 (P.L.373, No.55), is amended to read:

Section 1905-A. Grant of Tax Credit.—The Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV of this act, or any tax substituted in lieu thereof in an amount which shall not exceed fifty-five per cent of the total amount contributed during the taxable year by a business firm or twenty-five per cent of qualified investments by a private company in programs approved pursuant to section 1904-A of this act: Provided, That a tax credit of up to seventy-five per cent of the total amount contributed during the taxable year by a business firm or up to thirty-five per cent of the amount of qualified investments by a private company may be allowed for investment in programs where activities fall within the scope of special program priorities as defined with the approval of the Governor in regulations promulgated by the secretary, and Provided further, That a tax credit of up to seventy-five per cent of the total amount contributed during the taxable year by a business firm in comprehensive service projects with five-year commitments and up to eighty per cent of the total amount contributed during the taxable year by a business firm in comprehensive ***service*** projects with six-year or longer commitments shall be granted[.], ***and Provided further, That a tax credit of up to seventy-five per cent of the total amount contributed during the taxable year by a business firm in veterans' housing assistance approved under section 1904-A(b.3) shall be granted.*** Such credit shall not exceed five hundred thousand dollars ($500,000) annually for contributions or investments to fewer than four projects or one million two hundred fifty thousand dollars ($1,250,000) annually for contributions or investments to four or more projects. No tax credit shall be granted to any bank, bank and trust company, insurance company, trust company, national bank, savings association, mutual savings bank or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution or investment was made may be carried over for the next five succeeding calendar or fiscal years until the full credit has been allowed.

A business firm shall not be entitled to carry back or obtain a refund of an unused tax credit. The total amount of all tax credits allowed pursuant to this act shall not exceed eighteen million dollars ($18,000,000) in any one fiscal year. Of that amount, two million dollars ($2,000,000) shall be allocated exclusively for pass-through entities. However, if the total amounts allocated to either the group of applicants, exclusive of pass-through entities, or the group of pass-through entity applicants is not approved in any fiscal year, the unused portion shall become available for use by the other group of qualifying taxpayers.

Section 39. Section 1902-B of the act is amended by adding definitions to read:

Section 1902-B. Definitions.

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

* * *

"Master list." A list maintained by the contracting authority of the legal business names, principal business addresses within a neighborhood improvement zone and parcel numbers of all qualified businesses which are required to file reports for the calendar year under section 1904-B(a.1)(1). The term shall also include the name, telephone number and e-mail address of the person employed by the qualified business who is primarily responsible for completing reports for the qualified business required under section 1904-B(a.1).

* * *

"Operating organization." An entity which contracts directly with the contracting authority to lease or operate a facility.

* * *

Section 40. Section 1904-B(a.1) and (b) of the act, added July 9, 2013 (P.L.270, No.52), are amended and the section is amended by adding subsections to read:

Section 1904-B. Neighborhood Improvement Zone Funds.

* * *

(a.1) Certification.—

(1) Within **[30]** ***31*** days of the end of each calendar year, each qualified business shall file a report with the department which complies with all of the following:

(i) States each State tax, calculated in accordance with subsection (b), which was paid by the qualified business in the prior calendar year.

(ii) Lists each State tax refund which complies with all of the following:

(A) The refund is for a tax:

(I) set forth in subsection (b); and

(II) certified as paid under subsection (b).

(B) The refund was received in the prior calendar year by the qualified business.

(iii) Is in a form and manner required by the department.

(2) In addition to any penalties imposed under this act for failure to timely pay State taxes, **[failure]** ***the following shall apply:***

(i) Failure to file a timely and complete report under paragraph (1) shall result in the imposition of a penalty of 10% of all State taxes, calculated in accordance with subsection (b), which were payable by the qualified business in the prior calendar year. ***In no case shall the penalty imposed be less than $1,000. When the penalty is received, the money shall be transferred from the General Fund to the fund of the contracting authority that designated the neighborhood improvement zone in which the qualifying business is located. Failure to file a timely and complete report under paragraph (4) shall result in the imposition of a penalty of 10% of all local taxes, calculated in accordance with subsection (b) by a contracting authority which were payable by the qualified business in the prior calendar year. In no case shall the penalty imposed be less than $250.***

(ii) Failure to report a qualified business operating in the facility to the contracting authority by an operating organization in accordance with subsection (a.3)(2) shall result in the imposition of a penalty by the contracting authority upon the operating organization, of 100% of the taxes which would be certified under subsection (b) for each qualified business which is not reported to the contracting authority or $1,000, whichever is greater. The contracting authority may not waive or abate any penalties imposed under this subparagraph. When the penalty is received, the money shall be transferred from the General Fund to the fund of the contracting authority that designated the neighborhood improvement zone in which the qualifying business is located.

(iii) Failure to file a timely and complete report under paragraph (1) by a qualified business engaged in the active conduct of a trade or business during the calendar year in the facility shall result in the imposition of a penalty by the contracting authority upon the operating organization equal to 100% of the taxes paid which would be certified under subsection (b) for each qualified business which fails to file a timely and complete report. The penalty may not be less than $1,000. If the qualified business is properly included on the master list provided under subsection (a.3), the contracting authority may waive or abate penalties imposed under this subparagraph equal to the total taxes paid by the qualified business which are certified under subsection (b). When the penalty is received, the money shall be deposited in the fund of the contracting authority that designated the neighborhood improvement zone in which the qualifying business is located.

(3) **[Any]** ***Except as otherwise provided under paragraph (2)(ii) and (iii), any*** penalty imposed under this subsection shall be imposed, assessed and collected by the department under the provisions for imposing, assessing and collecting penalties under Article II. When the penalty is received, the money shall be transferred from the General Fund

to the fund of the contracting authority that designated the neighborhood improvement zone in which the qualified business is located.

(4) Within **[30]** *31* days of the end of each calendar year, each qualified business shall file a report with the local taxing authority reporting all local taxes, calculated in accordance with subsection (b), which were paid by the qualified business in the prior calendar year. The report from each qualified business shall also list any local tax refunds of taxes set forth in subsection (b) received in the prior calendar year by the qualified business and any refunds related to the local taxes as calculated in accordance with subsection (b). The report shall be in a form and manner required by the department.

* * *

(a.3) Master list.—The following shall apply:

(1) Except as provided under paragraph (2), within five days of the end of each month, the legal business names, business addresses within the neighborhood improvement zone and parcel numbers of all qualified businesses engaged in the active conduct of a trade or business during the previous month shall be provided to the contracting authority by or on behalf of the qualified business for purposes of inclusion on the master list. The name, telephone number and e-mail address of the person employed by the qualified business who is primarily responsible for completing reports for the qualified business required under subsection (a.1) shall also be provided.

(2) For purposes of inclusion on the master list, within five days of the end of each month during a calendar year, an operating organization shall provide to the contracting authority the legal business names and business addresses within the neighborhood improvement zone of all qualified businesses engaged in the active conduct of a trade or business in the facility during the previous month along with the name, phone number and e-mail address of the individual employed by the qualified business who is primarily responsible for completing the reports for the qualified business required under subsection (a.1).

(3) Within 10 days of the end of each calendar year, the contracting authority shall provide to the department the master list. The department may not certify any taxes paid directly or indirectly by a qualified business as provided under subsection (b) during the prior calendar year when the qualified business is not included on the master list.

(4) A contracting authority shall impose penalties for failure to comply with this section.

(b) Calculation.—Within 60 days of the end of each calendar year, the department shall certify separately for each neighborhood improvement zone the amounts of State taxes paid, less any State tax refunds received, by the qualified businesses filing reports under subsection (a.1)(1) to the Office of the Budget. Beginning in the first full calendar year following the designation of a neighborhood improvement zone and in each calendar year thereafter, by November 1, the department shall calculate, in accordance with this subsection, amounts of State taxes actually received by the

Commonwealth from each qualified business that filed a report under subsection (a.1)(1) in the prior calendar year, and the department shall certify the amounts received to the office. ***The department shall include reports filed five months after the due date under subsection (a.1)(1) in the November 1 certification.*** An entity collecting a local tax within the neighborhood improvement zone shall, within **[30]** ***31*** days of the end of each calendar year, submit all of the local taxes that are to be calculated under this subsection and which were paid in the prior calendar year, less any certified local tax refunds received by a qualified business in the prior calendar year, to the State Treasurer to be deposited in the fund under subsection (d) of the contracting authority that established the neighborhood improvement zone. This subsection shall not apply to any taxes subject to a valid pledge or security interest entered into in order to secure debt service on bonds if the pledge or security interest was entered into prior to May 1, 2011, or, in the case of the neighborhood improvement zone designated after July 1, 2011, on the date of the designation, and is still in effect. The following shall be the amounts calculated and certified separately for each neighborhood improvement zone:

(1) An amount equal to all corporate net income tax, capital stock and franchise tax, personal income tax, business privilege tax, business privilege licensing fees and earned income tax related to the ownership and operation of a professional sports organization conducting professional athletic events at the facility or facility complex.

(2) An amount equal to all of the following:

(i) All personal income tax, earned income tax and local services tax withheld from its employees by a professional sports organization conducting professional athletic events at the facility or facility complex.

(ii) All personal income tax, earned income tax and local services tax withheld from the employees of any provider of events at or services to or any operator of an enterprise in the facility or facility complex.

(iii) All personal income tax, earned income tax and local services tax to which the Commonwealth would be entitled from performers or other participants, including visiting teams, at an event or activity at the facility or facility complex.

(3) An amount equal to all sales and use tax related to the operation of the professional sports organization and the facility and enterprises developed as part of the facility complex. This paragraph shall include sales and use tax paid by any provider of events or activities at or services to the facility or facility complex, including sales and use tax paid by vendors and concessionaires and contractors at the facility or facility complex.

(4) An amount equal to all tax paid to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage in the facility or facility complex.

(5) The amount paid by the professional sports organization or by any provider of events or activities at or services to the facility or facility

complex of any new tax enacted by the Commonwealth following October 9, 2009.

(6) An amount equal to all personal income tax, earned income tax and local services tax withheld from personnel by the professional sports organization or by a contractor or other entity involved in the construction of the facility or facility complex.

(7) An amount equal to all sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other entity, directly related to the construction of the facility or facility complex.

(8) An amount equal to all of the following:

(i) All corporate net income tax, capital stock and franchise tax, personal income tax, business privilege tax, business privilege licensing fees and earned income tax related to the ownership and operation of any qualified business within the neighborhood improvement zone.

(ii) All personal income tax, earned income tax and local services tax withheld from its employees by a qualified business within the neighborhood improvement zone.

(iii) All personal income tax, earned income tax and local services tax withheld from the employees of a qualified business that provides events, activities or services in the neighborhood improvement zone.

(iv) All personal income tax, earned income tax and local services tax to which the Commonwealth would be entitled from performers or other participants at an event or activity in the neighborhood improvement zone.

(v) All sales and use tax related to the operation of a qualified business within the neighborhood improvement zone. This subparagraph shall include sales and use tax paid by a qualified business that provides events, activities or services in the neighborhood improvement zone.

(vi) All tax paid by a qualified business to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage within the neighborhood improvement zone.

(vii) The amount paid by a qualified business within the neighborhood improvement zone of any new tax enacted by the Commonwealth following October 9, 2009.

(viii) All personal income tax, earned income tax and local services tax withheld from personnel by a qualified business involved in the improvement, development or construction of the neighborhood improvement zone.

(ix) All sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other qualified business, directly related to the improvement, development or construction of the neighborhood improvement zone.

(x) An amount equal to any amusement tax paid by a qualified business operating in the neighborhood improvement zone. No

political subdivision or other entity authorized to collect amusement taxes may impose or increase the rate of any tax on admissions to places of entertainment, exhibition or amusement or upon athletic events in the neighborhood improvement zone which are not in effect on the date the neighborhood improvement zone is designated by the contracting authority.

(9) Except for a tax levied against real property and notwithstanding any other law, an amount equal to any tax imposed by the Commonwealth or any of its political subdivisions on a qualified business engaged in an activity within the neighborhood improvement zone or directly or indirectly on any sale or purchase of goods or services, where the point of sale or purchase is within the neighborhood improvement zone.

* * *

(h) Audit.—

(1) The contracting authority shall hire an independent auditing firm to perform an annual audit verifying all of the following:

(i) The correct amount of the eligible local tax was submitted to the local taxing authorities.

(ii) The local taxing authorities transferred the correct amount of eligible local tax to the State Treasurer.

(iii) The money transferred to the fund was properly expended.

(iv) The correct amount of excess money was refunded in accordance with the provisions of subsection (g).

(2) A copy of the annual audit shall be sent to the Department of Revenue and the Secretary of the Budget.

(3) For purposes of this paragraph, an auditing firm will not be considered independent if it provides services to an operating organization or any qualified business within a neighborhood improvement zone which is a party to a separate agreement with a contracting authority for the allocation of funds from the contracting authority.

Section 41. The act is amended by adding sections to read:

Section 1904.1-B. Taxes.

(a) Prohibition.—A division of local government may not assess real estate taxes on any property in a neighborhood improvement zone owned by a contracting authority.

(b) Local hotel tax.—Notwithstanding any other law, revenue generated from local hotel taxes levied in a neighborhood improvement zone must first be set aside for new development and capital improvement of hotel properties in the neighborhood improvement zone. If there is no new hotel property development or capital improvement in the neighborhood improvement zone, the revenue generated from hotel taxes must be distributed as provided under local hotel tax law.

(c) Amount.—For purposes of this article, revenue collected from local hotel taxes shall only include the amount of local hotel taxes collected from hotel activities which exceed the amount collected from hotel activities occurring prior to the designation of a neighborhood improvement zone by the contracting authority.

Section 1904.2-B. Property assessment.

Notwithstanding 53 Pa.C.S. Ch. 88 (relating to consolidated county assessment), for purposes of determining the assessed value of property located in a neighborhood improvement zone, the actual fair market value of the property shall be established without utilizing or considering the cost approach to valuation, and any funds received by the contracting authority and utilized directly or indirectly in connection with the property shall not be considered real property or income attributable to the property.

Section 1909-B. Exceptions.

Beginning with the 2016 calendar year, none of the following may be employed by, be contracting with or provide services for a contracting authority:

(1) An individual employed by, contracting with or providing service for a city that has a neighborhood improvement zone.

(2) An entity contracting with or providing services for a city that has a neighborhood improvement zone.

(3) An individual owning an entity or an entity with ownership interest in a separate entity which is contracting with a city that has a neighborhood improvement zone.

(4) An individual or an entity employed by, contracting with or providing services for a qualified business within the neighborhood improvement zone which is party to a separate agreement with a contracting authority for the allocation of funds from the contracting authority.

(5) An individual or an entity employed by, contracting with or providing services for an operating organization.

(6) A current board member of a contracting authority.

(7) An entity which is owned by or employs a current board member of a contracting authority.

Section 42. Section 1903-C(e)(1) of the act, added July 9, 2013 (P.L.270, No.52), is amended to read:

Section 1903-C. Keystone Special Development Zone tax credit.

* * *

(e) Use and carryforward.—

(1) A Keystone Special Development Zone employer may earn the tax credit allowed under this article beginning in any tax year beginning in 2012 and for a period of up to ten tax years during the **[15-year]** period beginning July 1, 2012, and ending June 30, **[2026]** *2035*.

* * *

Section 43. The act is amended by adding articles to read:

ARTICLE XIX-D
KEYSTONE OPPORTUNITY ZONES, KEYSTONE OPPORTUNITY EXPANSION ZONES AND KEYSTONE OPPORTUNITY IMPROVEMENT ZONES

PART I
PRELIMINARY PROVISIONS

Section 1901-D. Scope of article.

This article relates to keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones.

Section 1902-D. Definitions.

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

"Business." As defined in section 103 of the KOZ Act.

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

"Keystone opportunity expansion zone." As defined in section 103 of the KOZ Act.

"Keystone opportunity zone." As defined in section 103 of the KOZ Act.

"KOZ Act." The act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act.

"Person." As defined in section 103 of the KOZ Act.

"Political subdivision." As defined in section 103 of the the KOZ Act.

"Qualified business." As defined in section 103 of the KOZ Act.

"Qualified political subdivision." As defined in section 103 of the KOZ Act.

"Subzone." As defined in section 103 of the KOZ Act.

"Unoccupied parcel." As defined in section 103 of the KOZ Act.

PART II
KEYSTONE OPPORTUNITY ZONES

Section 1911-D. Additional keystone opportunity zones.

(a) Establishment.—In addition to any designations under section 301.1 of the KOZ Act, the department may designate up to 12 additional keystone opportunity expansion zones that will create new jobs in accordance with this section. Each additional keystone opportunity expansion zone shall:

(1) Not be less than 10 acres in size, unless contiguous to an existing zone.

(2) Not exceed, in the aggregate, a total of 375 acres.

(3) Be comprised of parcels that are deteriorated, underutilized or unoccupied on the effective date of this paragraph.

(b) Authorization.—Persons and businesses within an additional keystone opportunity expansion zone authorized under subsection (a) shall be entitled to all tax exemptions, deductions, abatements or credits set forth under this section and exemptions for sales and use tax under section 511(a) or 705(a) of the KOZ Act for a period of 10 years. Exemptions for sales and use taxes under sections 511 and 705 of the KOZ Act shall commence upon issuance of a certificate under section 307 of the KOZ Act by the department.

(c) Application.—In order to receive a designation under this section, the department must receive an application from a political subdivision or its designee no later than October 1, 2016. The application must contain

the information required under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ Act. The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits under this act for the zone within three months of receipt of the application. The department shall act on an application for a designation under section 302(a)(1) of the KOZ Act by December 31, 2016. The department may make designations under this section on a rolling basis during the application period.

(d) Additional eligibility.—A parcel previously included in an application submitted for designation in a city of the first class prior to the effective date of this subsection that previously complied with all requirements of section 302 of the KOZ Act shall be eligible for designation as a zone under this section if the parcel was acquired by a new owner and will be used for a higher and better use or will provide greater levels of job creation or investment.

(e) Applicability.—All exemptions, deductions, abatements and credits authorized under the KOZ Act shall apply to the parcels for a period of 10 years.

Section 1912-D. Extension for new job creation or new capital investment.

(a) Approval and effect.—

(1) The department may approve an application to grant an extension for a parcel located within a keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone upon application by:

(i) one qualified business as a sole applicant; or

(ii) two or more qualified businesses as a joint applicant.

(2) All exemptions, deductions, abatements and credits authorized under Chapter 5 of the KOZ Act shall be extended to the continued parcel for an additional period of 10 years following the expiration date of the existing keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone or subzone.

(b) Application.—

(1) In order to receive approval under subsection (a)(1), the department must receive an application from one or more qualified businesses located within the zone or subzone no later than three months prior to the expiration date of the existing zone or subzone. The application shall include all information required by the department as set forth in guidelines to be published by the department.

(2) In order to submit an application under paragraph (1), the applicant must:

(i) Have a cumulative minimum of 2,500 employees located within this Commonwealth at the time of the application.

(ii) Demonstrate a total prior minimum capital investment within this Commonwealth of at least $300 million.

(iii) Conduct active business operations from one or more facilities located on the parcel or parcels which are the subject of the application.

(iv) Otherwise be in compliance with the provisions of the KOZ Act.

(3) The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits authorized under Chapter 5 of the KOZ Act for the extended parcel within three months of receipt of the application, subject to the requirements of this section. If the department determines that all qualifications and requirements under this section and the KOZ Act have been met, a certification for the extension period shall be issued within 90 days of receipt of the application.

(4) The certification under paragraph (3) shall be effective as of the day following the expiration date of the existing zone or subzone and shall be effective for an additional period of 10 years.

(c) Qualifications.—

(1) The department shall issue to each qualified business that is approved as part of the application submitted under subsection (a) a certification as described under section 307 of the KOZ Act.

(2) For an applicant with multiple parcels that will expire during the time periods under subsection (e), in order to receive certification under paragraph (1), the applicant must commit that between the effective date of this paragraph and three years following the date of certification of the initial parcel applied for, the applicant shall:

(i) create at least 350 new jobs in this Commonwealth; or

(ii) make a capital investment of at least $35,000,000 in this Commonwealth.

(3) Each qualified business that fails to meet the requirements of paragraph (2) shall refund to the Commonwealth the amount of the exemptions, deductions, abatements and credits under Chapter 5 of the KOZ Act which were received by that business during the three years following receipt of the certification under paragraph (1).

(d) Expiration.—

(1) All continuations shall expire no later than 10 years following the effective date of certification by the department.

(2) If the qualified business that is a sole applicant removes itself from the continued parcel or parcel prior to the expiration of the continuation, the continuation shall expire upon the date of departure of that qualified business.

(3) If two or more qualified businesses submitted an application under subsection (a) as joint applicants, this subsection shall apply only if all the qualified businesses that were the joint applicants remove themselves from the parcel prior to the expiration of the continuation. In that case, the continuation shall expire upon the date of departure of the last qualified business.

(e) Applicability.—

(1) This section applies only to existing zones or subzones that expire in 2018 or at any time following 2018 and prior to January 1, 2026.

(2) This section does not apply to exemptions, deductions, abatements or credits authorized under Chapter 7 of the KOZ Act, and the department may not require that the qualified political subdivision in which the continued parcel or parcels are located approve any application submitted under subsection (b).

(3) The exemptions, deductions, abatements or credits authorized under Chapter 5 of the KOZ Act apply only to business activity carried out within the parcel or parcels which are approved for extension.

(4) A determination by the department as to whether the employment or capital investment requirements of subsections (b) and (c) have been met shall be binding upon the Department of Revenue.

ARTICLE XIX-E
MIXED-USE DEVELOPMENT TAX CREDIT

Section 1901-E. Scope of article.

This article establishes the Mixed-use Development Tax Credit, the Mixed-use Development Program and the Mixed-use Development Program Fund.

Section 1902-E. Purpose.

The implementation and use of this program shall be for the purposes of:

(1) Increasing affordable housing and commercial corridor development opportunities in areas of this Commonwealth where significant need and impact can be identified.

(2) Maximizing the leveraging of private and public resources.

(3) Fostering sustainable partnerships committed to addressing community needs.

(4) Ensuring that resources are used to effectively and efficiently meet community needs.

(5) Establishing a transparent application, allocation and reporting process for all stakeholders.

(6) Providing financing to critical projects as part of an overall strategy for revitalizing communities.

Section 1903-E. Definitions.

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

"Agency." The Pennsylvania Housing Finance Agency.

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

"Eligible projects." A building or buildings to be constructed or rehabilitated and any related real or personal property:

(1) located in a commercial corridor where a comprehensive neighborhood revitalization strategy is either in place or being developed;

(2) sponsored by an entity with development experience in this Commonwealth, with the capacity to complete the project, and qualified under the criteria established in guidelines developed by the agency;

(3) financed by a combination of public or private debt financing, gap financing or owner equity sufficient to ensure the financial feasibility of the project;

(4) has sufficiently demonstrated site control and the ability to proceed;

(5) complies with any other eligibility requirements the agency determines to be appropriate.

"Fund." The Mixed-use Development Program Fund established under section 1906-E.

"Mixed-use development tax credits." Amounts made available to qualified taxpayers to offset against qualified tax liability as authorized and allocated under this article, as evidenced by tax credit certificates and meeting all of the criteria set forth in this article.

"Program." The Mixed-use Development Program established under section 1904-E.

"Qualified tax liability." The tax liability imposed on a taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an employer under Article III.

"Qualified taxpayer." Any natural person, business firm, corporation, business trust, limited liability company, partnership, limited liability partnership, association or any other form of legal business entity that:

(1) is subject to a tax imposed under Article III, IV, VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an employer under Article III; and

(2) meets the criteria set forth in guidelines established by the agency.

"Tax credit certificates." The document provided by the agency to the qualified taxpayer evidencing the allocation of mixed-use development tax credits under section 1907-E.

Section 1904-E. Mixed-use Development Program.

(a) Establishment.—The Mixed-use Development Program is established as a program of the agency.

(b) Administration.—The program shall be administered by the agency in accordance with section 1905-E and with guidelines adopted and promulgated pursuant to this article.

Section 1905-E. Program administration.

(a) Authorization.—The agency is authorized to perform all necessary and convenient actions to implement the program.

(b) Application.—Eligible project owners may apply to the agency for program funding for an eligible project. The agency shall promulgate guidelines for applying for program funding under this section.

(c) Selection.—The agency shall review applications submitted for program funds and, in accordance with the procedures established in the agency guidelines, shall select and shall conditionally commit program funds to the eligible projects. Eligible project owners shall provide the agency with all program requirements necessary for closing and funding of the eligible project in a form and a timely manner as determined by the agency.

(d) Disbursement.—Funds shall be disbursed to the eligible project owner as determined by the agency.

(e) Monitoring and cost certification.—The agency shall establish procedures for the monitoring of the use of funds and for a cost certification process at the end of the construction or rehabilitation process.

(f) Agency guidelines.—Within 180 days of the effective date of this article, the agency shall perform the following:

(1) Adopt guidelines establishing the agency's priorities.

(2) Establish a method for:

(i) applying and distributing program funds; and

(ii) the sale of the tax credits under section 1907-E(d).

(g) Notice and comment.—The agency shall publish proposed guidelines, including a comment response document, in the Pennsylvania Bulletin and on the agency's publicly accessible Internet website for public comments no later than 45 days prior to adoption. All comments submitted to the agency in writing shall be public records and shall be incorporated into the comment response document.

(h) Report.—Within 90 days following the close of the first calendar year in which tax credits are made available, and by July 1 of every year thereafter, the agency, in consultation with the department, shall issue a report containing:

(1) A financial statement.

(2) An itemized list of the following:

(i) projects funded;

(ii) qualified taxpayers applying for tax credits; and

(iii) tax credits certificates issued.

(3) A description of other expenditures in the preceding calendar year.

(i) Submission of report.—The report under subsection (h) shall constitute a public record and shall be published on the agency's publicly accessible Internet website and submitted to the following:

(1) The Governor.

(2) The Auditor General.

(3) The chairperson and minority chairperson of the Urban Affairs and Housing Committee of the Senate.

(4) The chairperson and minority chairperson of the Commerce Committee of the House of Representatives.

Section 1906-E. Mixed-use Development Program Fund.

(a) Establishment.—The Mixed-use Development Program Fund is established as a separate account within the agency for the sole purpose of implementing the provisions of this article.

(b) Prohibition.—No other agency funds, money or interest earnings shall be utilized for purposes of this article.

(c) Deposit.—All money allocated or appropriated to the program shall be deposited into the fund and shall be appropriated to the agency on a continuing basis to carry out the provisions of this article.

(d) Funds.—The fund shall include money and proceeds generated through the sale and allocation of mixed-use development tax credits,

capital investments, penalties, fees and costs, interest and earnings pursuant to this article as well as grants or donations from other sources and any funds that may be appropriated for these purposes by the General Assembly under this article. Interest and any other earnings shall remain in the fund.

(e) Use of money.—The agency may use any available money in the fund for administrative costs and for purposes consistent with this article.

Section 1907-E. Mixed-use development tax credits.

(a) Tax credit authority.—For purposes, and in accordance with the provisions of this article, the agency may allocate an amount not to exceed $2,000,000 in each fiscal year in mixed-use development tax credits and is directed to deposit proceeds and earnings derived from the sale into the fund.

(b) Establishment and authorization.—The agency shall have the authority to perform actions necessary or convenient to establish protocols and procedures to sell and distribute mixed-use development tax credits, directly or indirectly, to achieve the purposes of this program.

(c) Limitations.—A qualified taxpayer may only purchase mixed-use development tax credits from the agency and may only apply such credits against the qualified taxpayer's qualified tax liability in accordance with this article.

(d) Sale procedures.—Mixed-use development tax credits may be offered by the agency through direct or negotiated sale to qualified taxpayers.

(e) Procedures.—The agency shall adopt procedures and application criteria that shall be designed to deliver the mixed-use development tax credits in the manner deemed most appropriate to maximize the highest yield to the Commonwealth, to achieve a timely and equitable execution of the delivery of mixed-use development tax credits and to achieve the goals and purposes of the program. Procedures for the sale and application criteria proposed by the agency shall be made available for public comment in a manner consistent with section 1905-E(g).

(f) Application.—A qualified taxpayer seeking to purchase a mixed-use development tax credit may apply to the agency in the manner prescribed by the agency as set forth in the guidelines adopted pursuant to this article. The agency may require applicants to provide evidence of the taxpayer's qualifications.

Section 1908-E. Payment for mixed-use development tax credits.

(a) Payment of capital.—Capital committed by a qualified taxpayer shall be paid to the agency for deposit into the fund. The agency may establish an installment payment schedule for payments to be made by the qualified taxpayer in accordance with guidelines established by the agency.

(b) Issuance of tax credit certificates.—Beginning July 1, 2017, the agency shall issue to each qualified taxpayer a tax credit certificate upon receipt of payment of capital.

(c) Certificate form.—The agency shall issue tax credit certificates to qualified taxpayers in a form determined by the agency in consultation with the department.

(d) Contents.—The tax credit certificate shall contain all of the following:

(1) The total amount of tax credits that a qualified taxpayer may claim.

(2) The amount of capital that the qualified taxpayer has contributed or agreed to contribute in return for the issuance of the tax credit certificate.

(3) The possible penalties or other remedies for noncompliance.

(4) The requirements for transferring the tax credits to other qualified taxpayers.

(5) Limitations and procedures for carryover of the tax credit.

(6) Reporting requirements.

(7) Any other requirements or content the agency, in consultation with the department, considers appropriate.

Section 1909-E. Failure to make contribution of capital and reallocation.

(a) Prohibition.—A tax credit certificate under section 1908-E may not be issued to a qualified taxpayer who fails to comply with agency guidelines.

(b) Penalty.—After the agency issues a tax credit certificate, a qualified taxpayer who fails to contribute capital in accordance with the agreed upon schedule of payments, or other conditions as determined by the agency, shall be subject to a penalty equal to 10% of the amount of capital that remains unpaid and assessment of costs and fees by the agency. The penalty shall be paid to the agency within 30 days after demand. A qualified taxpayer who fails to make a contribution within the specified time period may be subject to Commonwealth debarment, forfeiture or liquidation of any pledged collateral or to such other actions as deemed appropriate by the agency. All penalties, fees and costs shall be deposited into the fund to be used for the program.

(c) Reallocation.—The agency may, under guidelines promulgated by the agency, recapture and redeploy any defaulted capital. The agency shall make the credit available to other qualified taxpayers with minimal delay and cost to the program.

(d) Avoidance of penalty.—The agency may allow a qualified taxpayer that fails to make a contribution of capital within the time specified to avoid a penalty by transferring the allocation of tax credits to another qualified taxpayer within 30 days after the due date of the defaulted installment. Any transferee of an allocation of tax credits of a defaulting qualified taxpayer under this subsection shall be subject to all requirements of the agency and must agree to make the required contribution of capital within 30 days after the date of the transfer.

Section 1910-E. Claiming the credit.

(a) General rule.—Upon presenting a tax credit certificate issued and verified by the agency to the department, the qualified taxpayer may claim a tax credit against the qualified tax liability of the qualified taxpayer.

(b) Time period.—Presentation must be made no later than the last day of the second calendar month of the calendar year in which the credit is available. No tax credit will be provided unless the qualified taxpayer provides presentation to both the agency and to the department.

Section 1911-E. Carryover, carry back and assignment of credit.

(a) General rule.—The agency, in consultation with the department, shall establish guidelines that include procedures for the carryover, assignment and transfer of credits and reports on utilization.

(b) Carryover.—If a qualified taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, the excess credit may be carried over to subsequent taxable years and used as a credit against the qualified tax liability of the qualified taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. In no event shall tax credits provided by this article be carried over and applied to succeeding taxable years more than seven taxable years following the first taxable year for which the qualified taxpayer was entitled to claim the credit.

(c) Application.—A tax credit received by the department in a taxable year shall first be applied against the qualified taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was issued before any carried over tax credits can be applied against any qualified tax liability.

(d) No carry back or refund.—A qualified taxpayer may not carry back or obtain a refund of all or any portion of an unused tax credit granted to the qualified taxpayer under this article.

(e) Sale or assignment.—A qualified taxpayer, upon application and approval by the agency and in conformance with the agency's guidelines, may sell or assign, in whole or in part, a tax credit granted to the qualified taxpayer under this article.

(f) Purchasers and assignees.—The purchaser or assignee of all or a portion of a tax credit obtained under subsection (e) must be a qualified taxpayer and must immediately claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee may not carry over, carry back or obtain a refund or otherwise sell or assign the tax credit. The purchaser or assignee shall notify the agency of the utilization of the tax credit in compliance with procedures specified by the agency.

(g) Pass-through entity distributions.—The following shall apply:

(1) A pass-through entity may elect, in writing, according to procedures established by the agency, to transfer all or a portion of unused tax credits to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(2) A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the credit under paragraph (1) for the same qualified expenditures.

(3) A shareholder, member or partner of a pass-through entity to whom a credit is transferred under paragraph (1) must claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry over, carry back, obtain a refund of or sell or assign the credit.

ARTICLE XIX-F
KEYSTONE INNOVATION ZONES

Section 1901-F. Scope of article.

This article relates to the Keystone Innovation Zone Program.

Section 1902-F. Definitions.

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

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

"Institution of higher education." A public or private institution within this Commonwealth authorized by the Department of Education to grant an associate degree or higher degree. The term includes a branch or satellite campus of the institution.

"Keystone innovation zone." A clearly defined contiguous geographic area comprised of portions of one or more political subdivisions.

"Keystone innovation zone company." A for-profit business entity which is all of the following:

(1) Located within a keystone innovation zone.

(2) Has been in operation for less than eight years.

(3) Falls within one of the targeted industry segments adopted by the keystone innovation zone partnership in its strategic plan.

"Keystone innovation zone coordinator." A nonprofit organization which is all of the following:

(1) Not an institution of higher education.

(2) Chosen by a keystone innovation zone partnership and agreed to by the department to administer the activities of a keystone innovation zone.

"Keystone innovation zone partnership." Any association or group which is all of the following:

(1) Comprised of at least one institution of higher education and a combination of private businesses, business support organizations, commercial lending institutions, venture capital companies, angel investor networks or foundations.

(2) Formed for the creation and administration of a keystone innovation zone.

"KIZ." A keystone innovation zone.

"KIZ company." A keystone innovation zone company.

"KIZ coordinator." A keystone innovation zone coordinator.

"KIZ partnership." A keystone innovation zone partnership.

Section 1903-F. Program.

(a) Establishment.—There is established a program in the department to be known as the Keystone Innovation Zone Program. The program shall provide economic assistance to KIZ companies for the purpose of improving and encouraging research and development efforts and technology commercialization efforts resulting in employment growth and revitalization of communities.

(b) Application.—A keystone innovation zone partnership may apply to the department to establish a KIZ. All applications must be received by July 1, 2007, be on the form required by the department and include and demonstrate all of the following:

(1) The KIZ coordinator's name and address.

(2) A statement that the applicant is a KIZ partnership and the identity of its members.

(3) The geographic boundaries of the proposed KIZ.

(4) A copy of a written strategic plan adopted by the KIZ partnership describing the targeted industry segments which the KIZ will foster.

(5) Any other information required by the department.

(c) Review and designation.—The department shall review the application. Upon being satisfied that all requirements have been met, the department may approve the application. If the department approves the application, the department shall designate the identified area as a KIZ and accept the organization designated as the KIZ coordinator for the zone.

Section 1904-F. Assistance.

(a) Existing programs.—A KIZ company shall be eligible and may be given priority consideration in applying for assistance under any of the following:

(1) 12 Pa.C.S. (relating to commerce and trade).

(2) The act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

(3) The act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

(4) The act of June 22, 2001 (P.L.569, No.38), known as The Ben Franklin Technology Development Authority Act.

(5) The act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.

(6) The act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

(7) Any other act enacted after the effective date of this subsection which has economic development assistance as its primary objective.

(b) Loans of the Pennsylvania Industrial Development Authority.—The board of the Pennsylvania Industrial Development Authority may provide loans to entities for land and structures, including structures providing space for research and development activities, in which, when completed, at least one KIZ company will be located. If the structure is intended to accommodate more than one KIZ company, at least 80% of the space in the structure must be leased to KIZ companies. The board may establish the eligibility criteria, the interest rate, the loan term and the participation rate to be applied to these projects.

(c) KIZ operation grants.—

(1) The Ben Franklin Technology Development Authority may provide an annual KIZ operation grant of up to $250,000 to a KIZ coordinator for administrative costs incurred in establishing and implementing the KIZ.

(2) In subsequent years, a grant shall be reduced in accordance with all of the following:

(i) By 25% of the initial amount of the grant in the second year.

(ii) By 50% of the initial amount of the grant in the third year.

(iii) By 75% of the initial amount of the grant in the fourth year.

(3) The Ben Franklin Technology Development Authority shall develop guidelines for the application, receipt and use of operation grant funds.

Section 1905-F. Keystone innovation grants.

(a) Grants.—The department may provide keystone innovation grants to institutions of higher education to facilitate technology transfer, including patent filings, technology licensing, intellectual property and royalty agreements and other designated resource needs. The application must be on the form required by the department and must include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The KIZ partnership of which the applicant is a member.

(3) A written proposal. The proposal must state all of the following:

(i) The technology transfer activities to be undertaken. The activities may include the addition of personnel who are directly related in transferring technology to the local businesses.

(ii) The quantifiable goals and objectives to be achieved.

(iii) How the activities, goals and objectives will integrate with the strategic plan adopted for the KIZ.

(iv) The role of the applicant and other members of the KIZ partnership.

(4) Identification of a dollar-to-dollar match, which may be in kind if the department determines that the proposed match can be readily identified and tracked and which is directly related to the stated goals and objectives.

(5) Any other information required by the department.

(b) Approval.—The department shall review the application and, upon being satisfied that all requirements have been met, the department may approve the application. Prior to releasing grant funds, the department shall enter into a contract with the applicant that contains all of the following:

(1) The grant may not exceed $250,000 per year.

(2) Grants under this program shall not exceed $750,000 in the aggregate per applicant under this program.

(3) The aggregate amount of grants awarded to all applicants under this subsection shall not exceed $10,000,000 under this program.

(c) Penalty.—

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient of a grant for any of the following:

(i) If the recipient fails to use the grant for the technology transfer activities specified in the application.

(ii) If the recipient's membership in the KIZ partnership is terminated voluntarily or involuntarily.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the grant recipient.

(3) A penalty imposed under paragraph (1) shall be equal to the full amount of the grant received plus an additional amount of up to 10% of the amount of the grant received. The penalty shall be payable in one lump sum or in installments, with or without interest, as the department deems appropriate.

Section 1906-F. Keystone innovation zone tax credits.

(a) Tax credit.—A KIZ company may claim a tax credit equal to 50% of the increase in the KIZ company's gross revenues in the immediately preceding taxable year attributable to activities in the KIZ over the KIZ company's gross revenues in the second preceding taxable year attributable to its activities in the KIZ. A tax credit for a KIZ company shall not exceed $100,000 annually. For the purposes of the keystone innovation zone tax credit, the term "gross revenues" may include grants received by the KIZ company from any source whatsoever.

(b) Application for tax credit.—A KIZ company may file an application for a tax credit with the department. An application under this subsection must be filed by September 15 of each year for the prior taxable year, beginning September 15, 2006. The application must be submitted on a form required by the department and must be accompanied by a certification from the KIZ coordinator that the KIZ company falls within a targeted industry segment identified in the strategic plan adopted by the KIZ partnership. The department shall review the application and, upon being satisfied that all requirements have been met, the department shall issue a tax credit certificate to the KIZ company. All certificates shall be awarded by December 15 of each year.

(c) Limitation on tax credits.—

(1) The total amount of tax credits approved by the department shall not exceed $15,000,000 for any one taxable year.

(2) If $15,000,000 of the tax credits are not approved for any one taxable year, the unused portion shall not be available for use in future taxable years.

(3) If the total amount of tax credits applied for by all taxpayers for any one taxable year exceeds $15,000,000, then the tax credit to be received by each applicant shall be determined as follows:

(i) Divide:

(A) the eligible tax credit applied for by the applicant; by

(B) the total of all eligible tax credits applied for by all applicants.

(ii) Multiply:

(A) the quotient under subparagraph (i); by

(B) $15,000,000.

(d) Application of tax credit and election.—A tax credit approved under this section must be first applied against the KIZ company's tax liability under Article III, IV or VI, for the taxable year during which the tax credit is approved. If the amount of tax liability owed by the KIZ company is less than the amount of the tax credit, the KIZ company may elect to carry

forward the amount of the remaining tax credit for a period not to exceed four additional taxable years and to apply the credit against tax liability incurred during those tax years; or the KIZ company may elect to sell or assign a portion of the tax credit in accordance with the provisions of subsection (f). A KIZ company may not carry back or obtain a refund of an unused keystone innovation zone tax credit.

(e) Pennsylvania S corporation shareholder pass-through.—

(1) If a Pennsylvania S corporation does not have an eligible tax liability against which the tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a tax credit equal to the product of:

(i) the tax credit determined for the Pennsylvania S corporation for the taxable year; and

(ii) the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.

(2) The credit provided under paragraph (1) is in addition to any tax credit to which a shareholder of the Pennsylvania S corporation is otherwise entitled. However, a Pennsylvania S corporation and a shareholder of the Pennsylvania S corporation may not claim a tax credit under this section for the same activity.

(f) Sale or assignment of tax credit.—

(1) Upon application to and approval by the department, a KIZ company which has been awarded a tax credit may sell or assign, in whole or in part, the tax credit granted to the KIZ company. The application must be on the form required by the department and must include or demonstrate all of the following:

(i) The applicant's name and address.

(ii) A copy of the tax credit certificate previously issued by the department.

(iii) A statement as to whether any part of the tax credit has been applied to tax liability of the applicant and the amount so applied.

(iv) Any other information required by the department.

(2) The department shall review the application and, upon being satisfied that all requirements have been met, the department may approve the application and shall notify the Department of Revenue.

(g) Use of sold or assigned tax credit.—The purchaser or assignee of all or a portion of a keystone innovation zone tax credit under this section shall claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee of a tax credit may use the tax credit against any tax liability of the purchaser or assignee under Article III, IV, VI, VII, VIII, IX or XV. The amount of the tax credit used may not exceed 75% of the purchaser's or assignee's tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or assign the keystone innovation zone tax credit. The purchaser or assignee shall notify the department and the Department of Revenue of the seller or assignor of the keystone innovation zone tax credit in compliance with procedures specified by the department.

Section 1907-F. Guidelines.

Before any KIZ is approved by the department, the department shall approve written guidelines for the program and shall provide a copy of the guidelines to the Majority Leader and Minority Leader of the Senate, the Majority Leader and Minority Leader of the House of Representatives, the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.

Section 1908-F. Annual report.

The department shall submit an annual report to the Secretary of the Senate and the Chief Clerk of the House of Representatives indicating the effectiveness of the keystone innovation zone tax credit provided by this article by December 31 of each year, beginning December 31, 2007. Notwithstanding any law providing for the confidentiality of tax records, the report shall include the names of all taxpayers awarded the credits, all taxpayers utilizing the credits, the amount of credits approved and utilized by each taxpayer and the locations of the KIZ companies awarded the credits. The report shall be a public document.

Section 44. Section 2010 of the act, amended December 23, 2003 (P.L.250, No.46), is amended to read:

Section 2010. Limited Tax Credits.—(a) The General Assembly of the Commonwealth, conscious of the financial pressures facing small brewers in Pennsylvania and the attendant risk of business failure and loss of employment opportunity, declares it public policy that renewal and improvement of small brewers be encouraged and assisted by a limited tax subsidy to be granted during the period set forth in this section.

(b) As used in this section:

"Amounts paid." The phrase means (i) amounts actually paid, or (ii) at the taxpayer's election, amounts promised to be paid under firm purchase contracts actually executed during any calendar year falling within the effective period of this section: Provided, however, That there shall be no duplication of "amounts paid" under this definition.

"Effective period." The period from January 1, 1974, to December 31, 2008, ***and the period after June 30, 2017,*** inclusive.

"Qualifying capital expenditures." Amounts paid by a taxpayer during the effective period of this section for the purchase of items of plant, machinery or equipment for use by the taxpayer within this Commonwealth in the manufacture and sale of malt or brewed beverages: Provided, however, That the total amount of qualifying capital expenditures made by a taxpayer within a single calendar year shall not exceed two hundred thousand dollars ($200,000).

"Secretary." The Secretary of Revenue of the Commonwealth of Pennsylvania where not otherwise qualified.

"Taxpayer." A manufacturer of malt or brewed beverages claiming a tax credit or credits under this section **[and having an annual production of malt or brewed beverages that does not exceed one million five hundred thousand (1,500,000) barrels]**.

(c) A tax credit or credits shall be allowed for each calendar year to a taxpayer, as hereinafter provided, not to exceed in total amount the amount

of qualifying capital expenditures made by the taxpayer and certified by the secretary.

(d) A taxpayer desiring to claim a tax credit or credits under this section shall, within one year of the date of the original purchase of the qualifying capital expenditures, in accordance with regulations promulgated by the secretary, report annually to the secretary the nature, amounts and dates of qualifying capital expenditures made by him and such other information as the secretary shall require. If satisfied as to the correctness of such a report, the secretary shall issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within said report. The taxpayer shall also provide to the secretary the number of employes, total production of malt or brewed beverages and the amount of capital expenditures made by the taxpayer at each location operated by the taxpayer or a parent corporation, subsidiary, joint venture or affiliate. Also, the taxpayer shall notify the secretary of any contract for production held with another manufacturer. The secretary shall file a report annually with the Chief Clerk of the House of Representatives and with the Secretary of the Senate outlining the employment, production, expenditures and tax credits authorized under this section.

(e) Upon receipt from a taxpayer of a certificate from the secretary issued under subsection (c), the Secretary of Revenue shall grant a tax credit or credits in the amount certified against any tax due under this article in the calendar year in which the expenditures were incurred or against any tax becoming due from the taxpayer under this article in the following three calendar years. No credit shall be allowed against any tax due for any taxable period ending after December 31, 2008, ***and beginning before July 1, 2017.***

(f) The total amount of tax credits granted under this section shall not exceed five million dollars ($5,000,000) in any fiscal year.

(g) If the total amount of tax credits granted for all taxpayers exceeds the limitation on the amount of tax credits under this section in a fiscal year, the tax credit to be received by each applicant shall be determined as follows:

(1) Divide:

(i) the tax credit granted for the taxpayer; by

(ii) the total of all tax credits granted for all taxpayers.

(2) Multiply:

(i) the amount under subsection (f); by

(ii) the quotient under paragraph (1).

(3) The algebraic form of the calculation under this subsection is:

Taxpayer's tax credit = amount allocated for those tax credits X (tax credit granted to the taxpayer/total of all tax credits granted to all taxpayers).

Section 45. The definition of "members of the same family" in section 2102 of the act, added July 2, 2012 (P.L.751, No.85), is amended to read:

Section 2102. Definitions.—The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

"Members of the same family." Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendents of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood. ***For a transfer made by a surviving spouse, the term shall include any individual considered to be a member of the same family of the decedent spouse.***

* * *

Section 46. Section 2111(s), (s.1) and (t) of the act, added July 2, 2012 (P.L.751, No.85) and July 9, 2013 (P.L.270, No.52), are amended to read:

Section 2111. Transfers Not Subject to Tax.—* * *

(s) A transfer of real estate devoted to the business of agriculture **[between]** ***to or for the benefit of*** members of the same family, provided that after the transfer the real estate continues to be devoted to the business of agriculture for a period of seven years beyond the transferor's date of death **[and],** the real estate derives a yearly gross income of at least two thousand dollars ($2,000) ***and the real estate is reported on a timely filed inheritance tax return***, provided that:

(1) Any tract of land under this article which is no longer devoted to the business of agriculture within seven years beyond the transferor's date of death ***or does not derive a yearly gross income of at least two thousand dollars ($2,000)*** shall be subject to inheritance tax due the Commonwealth under section 2107, in the amount that would have been paid or payable on the basis of valuation authorized under section 2121 for nonexempt transfers of property, plus interest thereon accruing as of the transferor's date of death, at the rate established in section 2143.

(2) Any tax imposed under section 2107 shall be a lien in favor of the Commonwealth upon the property no longer being devoted to **[agricultural use, collectible in the manner provided for by law for the collection of delinquent real estate taxes,]** ***the business of agriculture or which does not derive a yearly gross income of at least two thousand dollars ($2,000),*** as well as the personal obligation of the owner of the property at the time of the **[change of use.]** ***event causing the property to fail to qualify for exemption and all beneficiaries of any trust that is an owner of the property. Liability for the tax shall be joint and several.***

(3) Every owner of real estate exempt under this subsection shall certify to the department on an annual basis that the land qualifies for this exemption and shall notify the department within thirty days of any transaction or occurrence causing the real estate to fail to qualify for the exemption. Each year the department shall inform all owners of their obligation to provide an annual certification under this subclause. This certification and notification shall be completed in the form and manner as provided by the department.

(s.1) A transfer of an agricultural commodity, agricultural conservation easement, agricultural reserve, agricultural use property or a forest reserve, as those terms are defined in section 2122(a), to ***or for the benefit of*** lineal descendants or siblings is exempt from inheritance tax, ***provided the foregoing property is reported on a timely filed inheritance tax return.***

(t) A qualified family-owned business. The following shall apply:

(1) A transfer of a qualified family-owned business interest to **[one or more qualified transferees]** ***or for the benefit of members of the same family*** is exempt from inheritance tax if the qualified family-owned business interest:

(i) continues to be owned by **[a qualified transferee]** ***members of the same family or a trust whose beneficiaries are comprised solely of members of the same family*** for a minimum of seven years after the decedent's date of death; and

(ii) is reported on a timely filed inheritance tax return.

(2) A qualified family-owned business interest that was exempted from inheritance tax under this subsection that is no longer owned by **[a qualified transferee]** ***members of the same family or a trust whose beneficiaries are comprised solely of members of the same family*** at any time within seven years after the decedent's date of death shall be subject to inheritance tax due the Commonwealth under section 2107, in an amount equal to the inheritance tax that would have been paid or payable on the value of the qualified family-owned business interest using the valuation authorized under section 2121 for nonexempt transfers of property. Interest shall accrue from the payment date established under section 2142 at the rate established under section 2143.

(2.1) The exemption under this subsection shall not apply to property transferred by the decedent into the qualified family-owned business within one year of the death of the decedent unless the property was transferred for a legitimate business purpose.

(3) Inheritance tax due under section 2107 as a result of disqualification under paragraphs (2) or (4), plus interest on the inheritance tax, shall be a lien in favor of the Commonwealth on the real and personal property of the owner of the qualified family-owned business interest at the time of the transaction or occurrence that disqualified the qualified family-owned business interest from the exemption provided under this subsection. The inheritance tax due and interest shall be **[collectible in the manner provided for by law for the collection of delinquent taxes and shall be]** the personal obligation of the owner of the qualified family-owned business interest at the time of the transaction or occurrence that disqualified the qualified family-owned business interest from the exemption provided under this subsection**[.]** ***and all beneficiaries of any trust that is an owner of the qualified family-owned business interest. Liability for the tax shall be joint and several.*** The lien shall remain until the inheritance tax and accrued interest are paid in full.

(4) Each owner of a qualified family-owned business interest exempted from inheritance tax under this subsection shall certify to the department, on an annual basis, for seven years after the decedent's date of death, that the qualified family-owned business interest continues to be owned by **[a qualified transferee]** ***members of the same family or a trust whose beneficiaries are comprised solely of members of the same family*** and shall notify the department within thirty days of any transaction or occurrence causing the qualified family-owned business interest to fail to qualify for the exemption. Each year, the department shall inform all owners of a qualified

family-owned business interest exempted from inheritance tax under this subsection of their obligation to provide an annual certification under this paragraph. The certification and notification shall be completed in the form and manner as provided by the department. An owner's failure to comply with the certification or notification requirements shall result in the loss of the exemption, and the qualified family-owned business interest shall be subject to inheritance tax due the Commonwealth under section 2107, in an amount equal to the inheritance tax that would have been paid or payable on the value of the qualified family-owned business interest using the valuation authorized under section 2121 for nonexempt transfers of property. Interest shall accrue from the payment date established in section 2142 at the rate established in section 2143.

(5) For purposes of this subsection, **[the following terms shall have the meanings given to them in this paragraph:**

"Qualified family-owned business interest." As follows:] ***the term "qualified family-owned business interest" shall be as follows:***

(i) an interest as a proprietor in a trade or business carried on as a proprietorship, if the proprietorship has fewer than fifty full-time equivalent employees as of the date of the decedent's death, the proprietorship has a net book value of assets totaling less than five million dollars ($5,000,000) as of the date of the decedent's death and has been in existence for five years prior to the date of the decedent's death; or

(ii) an interest in an entity carrying on a trade or business, if:

(A) the entity has fewer than fifty full-time equivalent employees as of the date of the decedent's death;

(B) the entity has a net book value of assets totaling less than five million dollars ($5,000,000) as of the date of the decedent's death;

(C) as of the date of the decedent's death, the entity is wholly owned by the decedent **[or]**, by the decedent and members of the **[decedent's family that meet the definition of a qualified transferee]** ***same family, by a trust whose beneficiaries are comprised solely of members of the same family or by an entity that is owned solely by members of the same family***;

(D) the entity is engaged in a trade or business the principal purpose of which is not the management of investments or income-producing assets owned by the entity; and

(E) the entity has been in existence for five years prior to the decedent's date of death.

["Qualified transferee." A decedent's:

(i) husband or wife;

(ii) lineal descendants;

(iii) siblings and the sibling's lineal descendants; and

(iv) ancestors and the ancestor's siblings.]

Section 47. Section 2130 of the act, amended July 9, 2013 (P.L.270, No.52), is amended to read:

Section 2130. Deductions Not Allowed.—The following are not deductible:

(2) Claims of a former spouse, or others, under an agreement between the former spouse and the decedent, insofar as they arise in consideration of a relinquishment or promised relinquishment of marital or support rights.

(3) Litigation expenses of beneficiaries.

(4) Indebtedness secured by real property or tangible personal property, all of which has its situs outside of this Commonwealth, except to the extent the indebtedness exceeds the value of the property.

(5) Expenses, debts, obligations and liabilities incurred in connection with a qualified family-owned business interest exempted from inheritance under section 2111(t) ***and any property exempted from inheritance tax under section 2111(s) or (s.1).***

Section 47.1. The act is amended by adding an article to read:

ARTICLE XXV
TABLE GAME TAXES

Section 2501. Definitions.

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

"Certificate holder." As defined in 4 Pa.C.S. § 1103 (relating to definitions).

"Gross table game revenue." As defined in 4 Pa.C.S. § 1103.

"Table game." As defined in 4 Pa.C.S. § 1103.

Section 2502. Table game taxes.

Commencing August 1, 2016, in addition to the tax payable under 4 Pa.C.S. § 13A62(a)(1) (relating to table game taxes), each certificate holder shall report to the Department of Revenue and pay from its daily gross table game revenue an additional tax of 2% of its daily gross table game revenue. The additional tax shall be subject to all provisions of 4 Pa.C.S. Ch. 13A (relating to table games) relating to the payment of taxes by a certificate holder in the same manner as the tax payable under 4 Pa.C.S. § 13A62(a)(1).

Section 2503. Expiration.

(a) Expiration.—This article shall expire June 30, 2019.

(b) Tax not applicable.—Notwithstanding any law to the contrary, the tax imposed by 4 Pa.C.S. § 13A62(a)(3) (relating to table game taxes) shall not apply for the period from the effective date of this section until after the expiration date in subsection (a).

Section 47.2. Section 2703(a) of the act is amended by adding a paragraph to read:

Section 2703. Petition procedure.

(a) Content of petition.—

* * *

(2.1) A petition for review of the denial of an amended report under section 406.1 shall state:

(i) The tax type and tax period included within the petition.

(ii) The reasons why the tax stated in the amended report should be accepted.

* * *

Section 48. Article XXIX-D heading of the act, added October 9, 2009 (P.L.451, No.48), is amended to read:

ARTICLE XXIX-D
[(RESERVED)]
COMPUTER DATA CENTER EQUIPMENT INCENTIVE PROGRAM

Section 49. The act is amended by adding sections to read:

Section 2901-D. Definitions.

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

"Computer data center." All or part of a facility that may be composed of one or more businesses, owners or tenants, that is or will be predominantly used to house working servers or similar data storage systems and that may have uninterruptible energy supply or generator backup power, or both, cooling systems, towers and other temperature control infrastructure.

"Computer data center equipment." Equipment that is used to outfit, operate or benefit a computer data center and component parts, installations, refreshments, replacements and upgrades to the equipment, whether any of the equipment is affixed to or incorporated into real property, including:

(1) All equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer servers or similar data storage equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.

(2) All equipment necessary to cool and maintain a controlled environment for the operation of the computer servers or data storage systems and other components of the computer data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters.

(3) All water conservation systems, including facilities or mechanisms that are designed to collect, conserve and reuse water.

(4) All software, including, but not limited to, enabling software and licensing agreements, computer servers or similar data storage equipment, chassis, networking equipment, switches, racks, cabling, trays and conduits.

(5) All monitoring equipment and security systems.

(6) Modular data centers and preassembled components of any item described in this definition, including components used in the manufacturing of modular data centers.

(7) Other tangible personal property that is essential to the operations of a computer data center.

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

"Facility." One or more parcels of land in this Commonwealth and any structures and personal property contained on the land.

"New investment." Construction, expansion or build out of data center space at either a new or an existing computer data center on or after January 1, 2014, and the purchase and installation of computer data center equipment, except for items described under paragraph (4) of the definition of "computer data center equipment."

"Owner or operator." Includes a single entity, multiple entities or affiliated entities.

"Qualification period." As follows:

(1) With respect to the owner or operator of a computer data center certified under this article, a period of time beginning on the date of certification of the computer data center and expiring at the end of the fifteenth full calendar year following the calendar year in which the owner or operator filed an application for certification.

(2) With respect to a qualified tenant of the owner or operator of a computer data center certified under this article, a period of time beginning on the date that the qualified tenant enters into an agreement concerning the use or occupancy of the computer data center and expiring at the earlier of the expiration of the term of the agreement or the end of the 10th full calendar year following the calendar year in which the qualified tenant enters into the agreement.

"Qualified tenant." An entity that contracts with the owner or operator of a computer data center that is certified pursuant to this article to use or occupy part of the computer data center for at least 100 kilowatts per month for two or more years.

"Tax refund." The tax refund provided for under this article.

"Tenant." An entity that contracts with the owner or operator of a computer data center to use or occupy part of the computer data center.

Section 2902-D. Sales and use tax refund.

(a) Application.—Beginning July 1, 2017, an owner or operator or qualified tenant of a computer data center certified under this article may apply for a tax refund of taxes paid under Article II upon the sale at retail or use of computer data center equipment for installation in a computer data center, purchased by:

(1) An owner or operator of a computer data center certified under this article.

(2) A qualified tenant certified under this article.

(b) Applicability.—Taxes paid under Article II during the qualification period shall be eligible for a refund under this article.

(c) Exclusions.—The following do not qualify for a tax refund:

(1) Computer data center equipment used by the computer data center to:

(i) generate electricity for resale purposes to a power utility, except for sales incidental to the primary sale to computer data centers and which qualify under subparagraph (ii); or

(ii) generate, provide or sell more than 5% of its electricity outside of the computer data center.

(2) (Reserved).

Section 2903-D. Application for certification.

To be considered for a certification, an owner or operator of a computer data center shall submit to the department an application on a form prescribed by the department that includes the following:

(1) The owner's or operator's name, address and telephone number.

(2) The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific portion or portions of the facility comprising the computer data center.

(3) If the computer data center is to qualify under section 2906-D(1), the following information:

(i) The anticipated investment associated with the computer data center for which the certification is being sought.

(ii) An affirmation, signed by an authorized executive representing the owner or operator, that the computer data center is expected to satisfy the certification requirements prescribed in section 2906-D(1).

(4) If the computer data center is to qualify under section 2906-D(2), an affirmation, signed by an authorized executive representing the owner or operator, that the computer data center has satisfied, or will satisfy, the certification requirements prescribed in section 2906-D(2).

(5) The department shall begin accepting applications no later than 90 days after the effective date of this section.

Section 2904-D. Review of application.

(a) General rule.—Within 60 days after receiving a complete and correct application, the department shall review the application and either issue a written certification that the computer data center qualifies for the certification or provide written reasons for its denial.

(b) Deemed approval.—Failure of the department to approve or deny an application within 60 days after the date the owner or operator of a computer data center submits the application to the department constitutes certification of the computer data center, and the department shall issue written certification to the owner or operator within 14 days. The department may not certify any computer data center after December 31, 2029.

Section 2905-D. Separation of facilities.

(a) Separate certification.—An owner or operator of a computer data center may separate a facility into one or more computer data centers, which may each receive a separate certification, if each computer data center individually meets the requirements prescribed in section 2906-D.

(b) Limitation.—A portion of a facility or an article of computer data equipment shall not be deemed to be a part of more than one computer data center.

(c) Aggregation.—An owner or operator may aggregate one or more parcels, buildings or condominiums in a facility into a single computer data center if, in the aggregate, the parcels, buildings and condominiums meet the requirements of this article.

Section 2906-D. Eligibility requirements.

A computer data center must meet one of the following requirements, after taking into account the combined investments made and annual

compensation paid by the owner or operator of the computer data center or the qualified tenant:

(1) On or before the fourth anniversary of certification, the computer data center creates a minimum investment of:

(i) At least $25,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals; or

(ii) At least $50,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals.

(2) One or more taxpayers operating or occupying a computer data center, in the aggregate, pay annual compensation of at least $1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

Section 2907-D. Notification.

(a) Requirements satisfied.—On or before the fourth anniversary of the certification of a computer data center, the owner or operator of a computer data center shall notify the department in writing whether the computer data center for which the certification is requested has satisfied the requirements prescribed in section 2906-D.

(b) Records.—Until a computer data center satisfies the requirements prescribed in section 2906-D, the owner, operator and qualified tenants shall maintain detailed records of all investments created by the computer data center, including costs of buildings and computer data center equipment, and all tax refunds directly received by the owner, operator or qualified tenant.

Section 2908-D. Revocation of certification.

(a) Revocation.—If the department determines that the requirements of section 2906-D have not been satisfied, the department may revoke the certification of a computer data center.

(b) Appeal.—The owner or operator of the computer data center may appeal the revocation. Appeals filed under this section shall be governed by Article II.

(c) Recapture.—If certification is revoked pursuant to this section, the qualification period of any owner, operator or qualified tenant of the computer data center expires, and the department may recapture from the owner, operator or qualified tenant all or part of the tax refund provided directly to the owner or operator or qualified tenant. The department may give special consideration or allow a temporary exemption from recapture of the tax refund if there is extraordinary hardship due to factors beyond the control of the owner or operator or qualified tenant.

Section 2909-D. Guidelines.

The department shall publish guidelines and prescribe forms and procedures as necessary for the purposes of this article.

Section 2910-D. Confidential information.

Proprietary business information contained in the application form described in section 2903-D and the written notice described in section 2907-D, as well as information concerning the identity of a qualified

tenant, are confidential and may not be disclosed to the public. The department may disclose the name of a computer data center that has been certified under this article.

Section 2911-D. List of tenants.

An owner or operator of a computer data center shall provide, to the extent permissible under Federal law, the department with a list of qualified tenants, including the commencement and expiration dates of each qualified tenant's agreement to use or occupy part of the computer data center. The list shall be provided to the department annually, upon request by the department.

Section 2912-D. Sale or transfer.

Except as provided in section 2908-D, a computer data center retains its certification regardless of a transfer, sale or other disposition, directly or indirectly, of the computer data center.

Section 2913-D. Application.

(a) General rule.—An owner, operator or qualified tenant may apply for a tax refund under this article on or before July 30, 2017, and each July 30 thereafter.

(b) Notification.—No later than September 30, 2017, and each September 30 thereafter, the department shall notify each applicant of the amount of tax refund approved by the department.

Section 2914-D. Limitations.

(a) Total.—The total amount of State tax refunds approved by the department under this article shall not exceed $5,000,000 in any fiscal year.

(b) Allocation.—If the total amount of tax refunds approved for all applicants exceeds the limitation on the amount of tax refunds in subsection (a) in a fiscal year, the tax refund to be received by each applicant shall be determined as follows:

(1) Divide:
(i) the tax refund approved for the applicant; by
(ii) the total of all tax refunds approved for all applicants.
(2) Multiply:
(i) the amount under subsection (a); by
(ii) the quotient under paragraph (1).
(3) The algebraic form of the calculation under this subsection is: Taxpayer's tax refund = amount allocated for those tax refunds X (tax refund approved for the applicant/total of all tax refunds approved for all applicants).

Section 49.1. The act is amended by adding an article to read:

ARTICLE XXIX-G
TAX AMNESTY PROGRAM FOR FISCAL YEAR 2016-2017

Section 2901-G. Definitions.

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

"Amnesty period." The time period of 60 consecutive days established by the Governor ending no later than June 30, 2017.

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

"Eligible tax." Any tax administered by the Department of Revenue delinquent as of December 31, 2015. The term includes any interest, penalty or fees on an eligible tax. For an unknown liability, the term shall only include taxes due within five years prior to December 31, 2015. For purposes of taxes collected under the International Fuel Tax Agreement, the term shall apply only to taxes, interest and penalties owed to the Commonwealth, not to other states or Canadian provinces.

"Program." The tax amnesty program established under section 2902-G as provided for in this article.

"Taxpayer." Any person, association, fiduciary, partnership, corporation or other entity required to pay or collect any of the eligible taxes. The term shall not include a taxpayer who, prior to the amnesty period, has received notice that the taxpayer is the subject of a criminal investigation for an alleged violation of any law imposing an eligible tax or who, prior to the amnesty period, has been named as a defendant in a criminal complaint alleging a violation of any law imposing an eligible tax or is a defendant in a pending criminal action for an alleged violation of any law imposing an eligible tax.

"Unknown liability." A liability for an eligible tax for which either:

(1) no return or report has been filed, no payment has been made and the taxpayer has not been contacted by the department concerning the unfiled returns or reports or unpaid tax; or

(2) a return or report has been filed, the tax was underreported and the taxpayer has not been contacted by the department concerning the underreported tax and is not already under audit when the amnesty period begins.

Section 2902-G. Establishment of program.

(a) General rule.—Except as provided in section 2902-F(c), a tax amnesty program is established and shall be administered by the department.

(b) Applicability.—Except as provided in section 2902-F(c), the program shall apply to a taxpayer who is delinquent on payment of a liability for an eligible tax as of December 31, 2015, including a liability for returns not filed, liabilities according to records of the department as of December 31, 2015, liabilities not reported, underreported or not established, but delinquent as of December 31, 2015.

(c) Future amnesty program participation.—A taxpayer who participates in the program shall not be eligible to participate in a future tax amnesty program.

(d) Deferred payment plan agreement.—Existing deferred payment plan agreements between a taxpayer and the department where the agreement applies to a tax liability for which amnesty is sought by the taxpayer for amounts remaining on the tax liability, the taxpayer, as a condition of receiving amnesty, shall pay the liability, notwithstanding terms of the agreement to the contrary, in full during the amnesty period.

Section 2903-G. Required payment.

(a) Taxpayer requirements.—Subject to section 2904-G, all taxpayers who participate in the program shall comply with all of the following:

(1) During the amnesty period, file a tax amnesty return in such form and containing such information as the department shall require. A tax amnesty return shall be considered to be timely filed if it is postmarked during the amnesty period or timely electronically or otherwise filed.

(2) During the amnesty period, make payment of all taxes and one-half of the interest due to the Commonwealth in accordance with the tax amnesty return that is filed. The taxpayer shall not be required to pay any penalty or fees applicable to an eligible tax.

(3) File complete tax returns for all required years for which the taxpayer previously has not filed a tax return and file complete amended returns for all required years for which the taxpayer underreported eligible tax liability.

(b) Prohibitions.—

(1) The department may not collect the penalties, interest or fees waived under subsection (a)(2). Except as otherwise provided in this article, the department shall not pursue administrative or judicial proceeding against a taxpayer with respect to an eligible tax that is disclosed on a tax amnesty return.

(2) A taxpayer with unknown liabilities reported and paid under the program and who complies with all other requirements of this article shall not be liable for any taxes of the same type due prior to January 1, 2011. A taxpayer shall not be owed a refund under this article.

Section 2904-G. Amnesty contingent on continued compliance.

Notwithstanding any other provision of this article, the department may assess and collect from a taxpayer all penalties and interest waived through the program if, within two years after the end of the program, either of the following occurs:

(1) the taxpayer granted amnesty under this article becomes delinquent for three consecutive periods in payment of taxes due or filing of returns required on a semimonthly, monthly, quarterly or other basis, and the taxpayer has not contested the tax liability through a timely valid administrative or judicial appeal; or

(2) the taxpayer granted amnesty under this article becomes delinquent and is eight or more months late in payment of taxes due or filing of returns on an annual basis, and the taxpayer has not contested the liability through a timely valid administrative or judicial appeal.

Section 2905-G. Limitation of deficiency assessment.

If, subsequent to the amnesty period, the department issues a deficiency assessment with respect to a tax amnesty return, the department may impose penalties and pursue a criminal action only with respect to the difference between the amount shown on that tax amnesty return and the current amount of tax.

Section 2906-G. Overpayment of tax.

Notwithstanding any other provisions of this article or any other act, if an overpayment of eligible tax is refunded or credited within 180 days after

the tax amnesty return is filed or the eligible tax is paid, whichever is later, no interest shall be allowed on the overpayment.

Section 2907-G. Previously paid interest and penalties.

No refund or credit shall be allowed for any interest or penalty on eligible taxes paid to the department prior to the amnesty period.

Section 2908-G. Proceedings relating to tax amnesty return barred.

Participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or pursue an administrative or judicial proceeding with regard to tax amnesty returns filed under the program or to claim any refund of money paid under the program is barred.

Section 2909-G. Undisclosed liabilities.

Nothing in this article shall be construed to prohibit the department from instituting civil or criminal proceedings against a taxpayer with respect to an amount of tax that is not disclosed on the tax amnesty return or an amount disclosed on the amnesty return that is not paid.

Section 2910-G. Duties of department.

(a) Guidelines.—The department shall develop guidelines to implement the provisions of this article. The guidelines shall be published in the Pennsylvania Bulletin within 60 days of the effective date of this section and shall contain, but not be limited to, the following information:

(1) An explanation of the program and the requirements for eligibility for the program.

(2) The dates during which a tax amnesty return may be filed.

(3) A specimen copy of the tax amnesty return.

(4) The amnesty revenue estimates required under section 2912-G(b).

(b) Publicity.—The department shall publicize the program to maximize public awareness of and participation in the program. The department shall coordinate to the highest degree possible its publicity efforts and other actions taken to implement this article.

(c) Reports.—The department shall issue reports to the General Assembly detailing program implementation. The reports shall contain the following information:

(1) Within 30 days after the end of the amnesty period:

(i) A detailed breakdown of the department's administrative costs in implementing the program.

(ii) The total dollar amount of revenue collected by the program.

(2) Within 180 days after the end of the amnesty period:

(i) The number of tax amnesty returns filed and a breakdown of the number and dollar amount of revenue raised for each tax by calendar year during which the tax period ended. In addition, the gross revenues shall be broken down in the following categories:

(A) Amounts represented by assessments receivable established by the department on or before the first day of the amnesty period.

(B) All other amounts.

(ii) The total dollar amount of penalties and interest waived under the program.

(iii) The demographic characteristics of tax amnesty participants, including North American Industry Classification System codes of participants, type of taxpayer, consisting of individual, partnership, corporation or other entity, size of tax liability and geographical location.

(d) Notification.—The department shall notify in writing all known tax delinquents at the taxpayers' last known valid addresses of the existence of the program. The sole purpose of the letter sent by the department to taxpayers shall be notification of the program.

Section 2911-G. Method of payment.

All tax payments under the program shall be made by certified check, money order, electronic transfer, credit card or other financial instrument acceptable to the department.

Section 2912-G. Use of revenue.

(a) Restricted revenue account.—Except as set forth in subsection (c), all revenue generated by this article shall be deposited into a restricted revenue account in the General Fund. Revenue from the restricted revenue account shall be distributed as follows:

(1) All money from General Fund sources shall be deposited in the General Fund no later than June 30, 2017, less repayment of any costs for administration of the program to the department.

(2) All revenue from Motor License Fund sources shall be deposited in the Motor License Fund no later than June 30, 2017.

(3) All revenue from Liquid Fuels Tax Fund sources shall be deposited in the Liquid Fuels Tax Fund no later than June 30, 2017.

(b) Revenue estimates.—

(1) The department shall submit, for publication in the Pennsylvania Bulletin:

(i) a separate amnesty revenue estimate for revenue generated under this article from the following sources:

(A) The General Fund.

(B) The Motor License Fund.

(C) The Liquid Fuels Tax Fund.

(ii) The methodology used to develop the estimate.

(2) All amnesty revenue estimates shall be submitted for publication pursuant to section 2910-G(a)(4).

Section 2913-G. Additional penalty.

(a) General rule.—Subject to the limitations provided under subsection (b), a penalty of 5% of the unpaid tax liability and penalties and interest shall be levied against a taxpayer subject to an eligible tax if the taxpayer failed to remit an eligible tax due or had an unreported or underreported liability for an eligible tax on or after the first day following the end of the amnesty period.

(b) Nonapplicability.—The penalty provided in this section shall not apply to a taxpayer who:

(1) pays the liability in full or entered into a duly approved and executed deferred payment plan on or before the last day of the amnesty period; or

(2) has filed a timely and valid administrative or judicial appeal contesting the liability on or before the last day of the amnesty period.

(c) Penalty in addition.—The penalty provided by this section shall be in addition to all other penalties provided by law.

Section 2914-G. Construction.

Except as expressly provided in this article, this article shall not:

(1) be construed to relieve a person, corporation or other entity from the filing of a return or from a tax, penalty or interest imposed by the provisions of any law;

(2) affect or terminate a petition, investigation, prosecution, legal or otherwise, or other proceeding pending under the provisions of any such law; or

(3) prevent the commencement or further prosecution of a proceeding by the proper authorities of the Commonwealth for violation of any such law or for the assessment, settlement, collection or recovery of tax, penalty or interest due to the Commonwealth under any such law.

Section 2915-G. Suspension of inconsistent acts.

All acts or parts of acts inconsistent with the provisions of this article are suspended to the extent necessary to carry out the provisions of this article.

Section 50. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment of the following provisions of the act:

(i) Section 301(k) and (w).
(ii) Section 303(a)(7).
(iii) Section 312.
(iv) Section 316.
(v) Section 317.
(vi) Section 318.
(vii) Section 319.
(viii) Section 320.
(ix) Section 321.
(x) Section 325(a).
(xi) Section 352.2(a).

(2) Section 312 of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, is repealed insofar as it is inconsistent with this act.

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of Article XVIII-G of the act.

(4) The act of October 25, 2012 (P.L.1664, No.206), known as the Promoting Employment Across Pennsylvania Act, is repealed.

(5) The General Assembly declares that the repeal under paragraph (6) is necessary to effectuate the addition of Article XIX-F of the act.

(6) 12 Pa.C.S. Ch. 37 is repealed.

(7) The General Assembly declares that the repeal under paragraph (8) is necessary to effectuate the addition of section 1296(c) of the act.

(8) 53 Pa.C.S. § 8722(k) is repealed.

Section 51. This act shall apply as follows:

(1) The amendment of section 227 of the act shall apply to returns due on or after August 1, 2016.

(1.1) The amendment of sections 2102 and 2111(s) and (s.1) of the act shall apply to inheritance tax imposed as to a decedent whose date of death is after December 31, 2012.

(1.2) The amendment of section 1707-B of the act shall apply retroactively to January 1, 2016.

(2) The amendment of section 2111(t) of the act shall apply to inheritance tax imposed as to a decedent whose date of death is after June 30, 2013.

(3) The following provisions shall apply retroactively to January 1, 2014:

(i) The amendment of section 303(a.8) of the act.

(ii) The amendment or addition of section 701.1(b) and (b.1) of the act.

(iii) The amendment of section 701.4(3)(xiii) of the act.

(3.1) The amendment of section 403(a) of the act shall apply to taxable years beginning after December 31, 2015.

(4) The amendment of sections 301(k)(5) and 303(a)(7) of the act concerning lottery winnings shall apply retroactively to January 1, 2016.

(5) The following provisions shall apply to taxable years beginning after December 31, 2016:

(i) (Reserved).

(ii) The amendment of the definitions of "doing business in this Commonwealth" and "receipts" in section 701.5 of the act.

(iii) The amendment of sections 1702-D (renumbered as section 1711-D of the act) and 1703-D (renumbered as section 1712-D of the act) of the act.

(6) The addition of Subarticles C and D of Article XVII-D of the act shall apply to fiscal years beginning after June 30, 2016.

(7) The amendment or addition of sections 1707-D(a) (renumbered as section 1716-D of the act) and 1716.1-D of the act shall apply to fiscal years beginning after June 30, 2017.

(8) The addition of sections 406.1 and 2703(a)(2.1) of the act shall apply to amended reports filed after December 31, 2016.

(9) The amendment of section 1101(b.1), (c), (c.1), (e) and (j) of the act shall apply to gross receipts received after December 31, 2016.

(10) The addition of section 204(70) of the act shall apply to the sale at retail or use of services occurring after June 30, 2016.

(11) The amendment or addition of the following provisions of the act shall apply to transfers at least 60 days following the effective date of this section:

(i) The definitions of "conservancy" and "veterans' organization" in section 1101-C.

(ii) Section 1102-C.2.

(iii) Section 1102-C.3(18) and (24).

Section 52. Notwithstanding the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, and the act of

December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the amendment or addition of the following provisions of the act shall not preempt any tax imposed by a unit of local government as of the effective date of this section unless specifically provided for in this act:

(1) Sections 201(k), (m) and (o), 204(13) and (70), 227 and 268(b) and (c).

(2) Article XII-A.

Section 53. The following shall apply:

(1) The inclusion of roll-your-own tobacco in the addition of Article XII-A of the act requires the amendment of the definition of "units sold" in section 3 of the act of June 22, 2000 (P.L.394, No.54), known as the Tobacco Settlement Agreement Act, and in section 102 of the act of December 30, 2003 (P.L.441, No.64), known as the Tobacco Product Manufacturer Directory Act.

(2) The Office of Attorney General shall attempt to obtain the consent of the participating manufacturers under the Master Settlement Agreement to the amendments specified under paragraph (1). For the purposes of this paragraph, the term "Master Settlement Agreement" shall mean the settlement agreement and related documents entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers and approved by the court in Commonwealth v. Philip Morris, April Term, 1997, No.2443 (C.P. Philadelphia County), on January 13, 1999.

(3) If the consents under paragraph (2) are obtained, the Office of Attorney General shall:

(i) provide notice to the Secretary of Revenue; and

(ii) submit for publication in the Pennsylvania Bulletin a notice of the consent.

(4) If the consents under paragraph (2) are not obtained, the Office of Attorney General shall:

(i) notify the Secretary of Revenue; and

(ii) submit for publication in the Pennsylvania Bulletin a notice of the refusal.

(5) The following provisions shall take effect 60 days after the Office of Attorney General publishes the notice of the consents under paragraph (3)(ii):

(i) The amendment of section 1215(g) of the act.

(ii) The addition of the following:

(A) The definition of "roll-your-own tobacco" in section 1201-A of the act.

(B) Paragraph (2) of the definition of "tobacco products" in section 1201-A of the act.

(C) Section 1203-A(a)(2) of the act.

(D) Section 1216-A of the act.

Section 53.1. The addition of section 204(70) of the act may not be used by the Department of Revenue or any party to an audit, appeal or proceeding before the Department of Revenue to determine the applicability of the tax imposed under section 202 prior to the effective date of section 204(70).

Section 54. This act shall take effect as follows:

(1) The following provisions shall take effect in 30 days:

(i) The addition of the definitions of "master list" and "operating organization" in section 1902-B of the act.

(ii) The amendment or addition of section 1904-B(a.1), (a.3), (b) and (h) of the act.

(iii) The addition of section 1904.1-B of the act.

(iv) The addition of section 1904.2-B of the act.

(v) The addition of section 1909-B of the act.

(2) The following provisions shall take effect in 60 days:

(i) The addition of section 204(70) of the act.

(ii) The addition of section 303(a.9) of the act.

(iii) The addition of Article XIX-E of the act.

(3) The following provisions shall take effect August 1, 2016:

(i) The amendment of section 201(m) of the act.

(ii) The amendment of sections 1206, 1206.1 and 1216 of the act.

(iii) The addition of section 2503 of the act.

(4) Except as set forth in section 53(5) of this act, the addition of Article XII-A of the act shall take effect October 1, 2016.

(5) Section 50(4) of this act shall take effect December 1, 2016.

(6) The amendment or addition of section 1101(b.1), (c), (c.1), (e) and (j) of the act shall take effect January 1, 2017.

(7) The amendment of section 201(k)(8) and (o)(4)(B) of the act shall take effect July 1, 2017.

(8) The remainder of this act shall take effect immediately.

APPROVED—The 13th day of July, A.D. 2016

TOM WOLF