No. 2019-13

AN ACT

HB 262

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," in sales and use tax, further providing for definitions, for imposition of tax, for exclusions from tax, for licenses, for persons required to make returns, for tax held in trust for the Commonwealth, for assessment, for collection of tax and for crimes and providing for class actions; in personal income tax, further providing for classes of income, providing for contributions for Veterans' Trust Fund, further providing for returns of married individuals, deceased or disabled individuals and fiduciaries and providing for paid tax return preparers and required information on personal income tax returns; in corporate net income tax, further providing for manufacturing innovation and reinvestment deduction; in realty transfer tax, further providing for definitions and for excluded transactions and providing for transfer of tax; in entertainment production tax credit, further providing for definitions, for carryover, carryback and assignment of credit, for limitations, for film production tax credit districts, for definitions, for carryover, carryback and assignment of tax credit and for limitations; in resource enhancement and protection tax credit, further providing for definitions, for Resource Enhancement and Protection Tax Credit Program, for tax credits, for project certification and for annual tax credits; in historic preservation incentive tax credit, further providing for definitions and for tax credit certificates, establishing the Historic Rehabilitation Tax Credit Administration Account, further providing for carryover, carryback and assignment of credit, for pass-through entity, providing for annual report to General Assembly, further providing for application of Internal Revenue Code and for limitation and providing for recapture; in coal refuse energy and reclamation tax credit, further providing for definitions, for application and approval of tax credit and for limitation on tax credits; in tax credit for new jobs, further providing for application process; in city revitalization and improvement zones, further providing for definitions and for restrictions; in manufacturing and investment tax credit, further providing for definitions, for rural growth funds, for requirements, for rural growth fund failure to comply, for reporting obligations, for business firms, for tax credit certificates, for claiming the tax credit, for prohibitions, for revocation of tax credit certificates and for exit; in neighborhood assistance tax credit, further providing for definitions, for public policy and for tax credit; in keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones, providing for additional designations; in mixed-use development tax credit, further providing for mixed-use development tax credits; in inheritance tax, further providing for inheritance tax; in table game taxes, reenacting provisions relating to table game taxes and further providing for expiration; in strategic development areas, further providing for sales and use tax and for local sales and use tax; in computer data center equipment incentive program, further providing for limitations; providing for independent public schools; and making a related repeal.

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

Section 1. Section 201(n) and (p) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are amended, clauses (b) and (g) are amended by adding subclauses and the section is amended by adding clauses 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:

* * *

(b) "Maintaining a place of business in this Commonwealth."

* * *

(3.5) (i) Engaging in any activity as a business by any person, either directly or through a subsidiary, representative or an agent, in connection with the lease, sale or delivery of tangible personal property into this Commonwealth or the performance of services for use, storage or consumption or in connection with the sale or delivery for use in this Commonwealth of at least one hundred thousand dollars ($100,000) during the preceding twelve-month calendar period.

(ii) For a marketplace facilitator, this activity includes all sales, leases and deliveries of tangible personal property, and all sales of services by the marketplace seller whose sales are facilitated through the marketplace facilitator's forum.

* * *

(g) "Purchase price."

* * *

(9) The purchase price of "malt or brewed beverages" sold by a "manufacturer of malt or brewed beverages" directly to the ultimate consumer for consumption on or off premises shall be twenty-five per cent of the retail sales price of the "malt or brewed beverages" sold for consumption on or off premises.

* * *

(n) "Taxpayer." Any person required to pay or collect the tax imposed by this article, ***including a marketplace facilitator and a marketplace seller.***

* * *

(p) "Vendor." Any person maintaining a place of business in this Commonwealth, selling or leasing tangible personal property, or rendering services, the sale or use of which is subject to the tax imposed by this article, ***including a marketplace facilitator and a marketplace seller,*** but not including any employe who in the ordinary scope of employment renders services to his employer in exchange for wages and salaries.

* * *

(eee) "Liquor." Liquor as that term is defined in the "Liquor Code."

(fff) "Malt or brewed beverages." Malt or brewed beverages as that term is defined in the "Liquor Code."

(ggg) "Manufacturer of malt or brewed beverages." Manufacturer of malt or brewed beverages as that term is defined in the "Liquor Code."

(hhh) "Forum." A place where sales at retail occur, whether physical or electronic. The term includes a store, a booth, an Internet website, a catalog or similar place.

(iii) "Marketplace facilitator." A person that facilitates the sale at retail of tangible personal property. For purposes of this article, a person facilitates a sale at retail if the person or an affiliated person:

(1) lists or advertises tangible personal property for sale at retail in any forum; and

(2) either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser and transmits the payment to the person selling the property.

The term includes a person that may also be a vendor.

(jjj) "Marketplace seller." A person that has an agreement with a marketplace facilitator to facilitate sales for the person.

(kkk) "Affiliated person." A person that, with respect to another person:

(1) has a direct or indirect ownership interest of more than five per cent in the other person; or

(2) is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than five per cent in the related person.

(lll) "Animal housing facility." A roofed structure or facility, or a portion of the facility, used for occupation by livestock or poultry.

Section 2. Section 202(a) and (b) of the act are amended and the section is amended by adding a subsection to read:

Section 202. Imposition of Tax.—(a) There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined herein, within this Commonwealth a tax of six per cent of the purchase price, which tax shall, *except as otherwise provided,* be collected by the vendor or any other person required by this article from the purchaser, and shall be paid over to the Commonwealth as herein provided.

(b) There is hereby imposed upon the use, on and after the effective date of this article, within this Commonwealth of tangible personal property purchased at retail on or after the effective date of this article, and on those services described herein purchased at retail on and after the effective date of this article, a tax of six per cent of the purchase price, which tax shall be paid to the Commonwealth by the person who makes such use as herein provided, except that such tax shall not be paid to the Commonwealth by such person where he has paid the tax imposed by subsection (a) of this section or has paid the tax imposed by this subsection (b) to the vendor with respect to such use[.], *or such vendor advertises or holds out or states to such person directly or indirectly subject to the conditions set forth in section 268(b) that such vendor will pay the tax imposed by subsection (a) or this subsection for such person.* The tax at the rate of six per cent imposed by this subsection shall not be deemed applicable where the tax has been incurred under the provisions of the "Tax Act of 1963 for Education."

* * *

(h) (1) Notwithstanding any other provision of this article, Article II-B, the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, or Chapter 5 or 6 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class, the tax shall be imposed on a manufacturer of malt or brewed beverages with respect to sales of malt or brewed beverages sold by the manufacturer directly to the ultimate consumer for consumption on or off premises.

(2) The tax imposed under clause (1) shall be paid and reported by the manufacturer of malt or brewed beverages to the department in the time and manner provided in this article.

(3) Notwithstanding any law to the contrary, a school district or local government authorized to impose a local alcoholic beverage tax under the act of June 10, 1971 (P.L.153, No.7), known as the First Class School District Liquor Sales Tax Act of 1971, or 53 Pa.C.S. § 8602 (relating to local financial support), may impose or continue to impose a local alcoholic beverage tax on the sale at retail of malt or brewed beverages made by a manufacturer of malt or brewed beverages to the ultimate consumer for consumption on or off premises at the same rate as authorized under the First Class School District Liquor Sales Tax Act of 1971 or 53 Pa.C.S. § 8602 and notwithstanding anything to the contrary in such laws or in a local law or ordinance in existence on the effective date of this section.

(4) The payment of the tax imposed under clause (1) shall eliminate the need for the ultimate consumer to pay or remit a sales or use tax on the related transaction or upon the subsequent use of the malt or brewed beverages.

Section 3. Section 204(49) of the act is amended and the section is amended by adding clauses to read:

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

* * *

(49) The sale at retail or use of food and beverages by nonprofit associations which support sports programs ***or youth centers***. For purposes of this clause, the phrases:

(i) "nonprofit association" means an entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis;

(iv) "sports program" means baseball (including softball), football, basketball, soccer and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. § 371 et seq.), the Amateur Athletic Union or the National Collegiate

Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for persons with physical handicaps or persons with mental retardation;

(v) "support" means*:*

(A) the funds raised from sales are used to pay the expenses of a sports program or ***a youth center; or***

(B) the nonprofit association sells the food and beverages at ***a youth center or*** a location where a sports program is being conducted under this act[.]*;*

(vi) "youth center" means a fixed location used exclusively for programs for individuals who are 19 years of age or younger as long as the programs are:

(A) conducted primarily by volunteers;

(B) designed to advance recreational, civic or moral objectives; and

(C) conducted by an organization that is qualified under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) and that has obtained an exemption number from the department as a charitable organization under clause (10).

* * *

(71) The sale at retail or use of food and beverages by a volunteer firemen's organization to raise funds for the purposes of the volunteer firemen's organization.

(72) The sale at retail of building materials and supplies used for the construction or repair of an animal housing facility, regardless if the sale is made to the purchaser directly or pursuant to a construction contract.

Section 4. Sections 208(a), 215 and 225 of the act are amended to read:

Section 208. Licenses.—(a) Every person maintaining a place of business in this Commonwealth, ***with the exception of a marketplace seller who makes no sales outside a forum for which a marketplace facilitator is required to collect sales tax on the seller's behalf,*** selling or leasing services or tangible personal property, the sale or use of which is subject to tax and who has not hitherto obtained a license from the department, shall, prior to the beginning of business thereafter, make application to the department, on a form prescribed by the department, for a license. If such person maintains more than one place of business in this Commonwealth, the license shall be issued for the principal place of business in this Commonwealth.

* * *

Section 215. Persons Required to Make Returns.—Every person required to pay tax to the department or collect and remit tax to the department, ***but not including a marketplace seller who solely makes sales through a marketplace facilitator that is required to collect sales tax on the seller's behalf and receives a certification from the marketplace facilitator that the marketplace facilitator will collect, report and remit the proper sales tax,*** shall file returns with respect to such tax.

Section 225. Tax Held in Trust for the Commonwealth.—All taxes collected by any person from purchasers in accordance with this article and all taxes collected by any person from purchasers under color of this article, ***including all taxes paid by any person who advertises or holds out or states, directly or indirectly, that such person will pay the tax for the purchaser,*** which have not been properly refunded by such person to the purchaser shall constitute a trust fund for the Commonwealth, and such trust shall be enforceable against such person, his representatives and any person (other than a purchaser to whom a refund has been made properly) receiving any part of such fund without consideration, or knowing that the taxpayer is committing a breach of trust: Provided, however, That any person receiving payment of a lawful obligation of the taxpayer from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust. Any person, other than a taxpayer, against whom the department makes any claim under this section shall have the same right to petition and appeal as is given taxpayers by any provisions of this part.

Section 5. Section 230 of the act is amended by adding subsections to read:

Section 230. Assessment.—* * *

(c) A marketplace facilitator is relieved of liability under subsection (a) if the marketplace facilitator can show to the satisfaction of the department that the failure to collect the correct amount of tax was due to incorrect information given to the marketplace facilitator by a marketplace seller.

(d) A marketplace seller is relieved of liability under subsection (a) pertaining to those sales made through a marketplace facilitator, when the marketplace facilitator certifies to the seller that the marketplace facilitator will collect, report and remit the proper sales tax, unless the seller gave incorrect information to the marketplace facilitator.

Section 6. Section 237(b)(1) of the act is amended, subsection (b) is amended by adding a paragraph and the section is amended by adding subsections to read:

Section 237. Collection of Tax.—* * *

(b) Collection by Persons Maintaining a Place of Business in the Commonwealth. (1) Every person maintaining a place of business in this Commonwealth and selling or leasing tangible personal property or services, ***with the exception of a marketplace seller who solely makes sales through a marketplace facilitator that is required to collect sales tax on the marketplace seller's behalf and receives a certification from the marketplace facilitator that the marketplace facilitator will collect, report and remit the proper sales tax,*** the sale or use of which is subject to tax shall collect the tax from the purchaser or lessee at the time of making the sale or lease, and shall remit the tax to the department, unless such collection and remittance is otherwise provided for in this article.

* * *

(1.2) (i) A vendor maintaining a place of business within this Commonwealth under section 201(b)(3.5) in calendar year 2018 shall collect sales tax from July 1, 2019, through March 31, 2020.

(ii) A vendor maintaining a place of business within this Commonwealth under section 201(b)(3.5) in calendar years after 2018 shall collect sales tax from the second quarter, beginning April 1, of the following calendar year through the first quarter, ending March 31, of the next calendar year.

* * *

(b.1) Collection by Marketplace Facilitators. A marketplace facilitator maintaining a place of business in this Commonwealth must collect and remit the sales tax on all sales, leases and deliveries of tangible personal property, and all sales of services, by marketplace sellers whose sales are facilitated through the marketplace facilitator's forum.

* * *

(c.1) Authorization to Obtain Information. In lieu of the exemption certificate required under subsection (c), the department may authorize a vendor to obtain similarly specific information from the vendor's purchasers. This information includes, but is not limited to, the name and address of the purchaser and a valid basis for exemption. The purchases made pursuant to this subsection must be made with a verifiable source of payment connected to the specific purchaser. The information regarding each purchase shall be available at the time the return is filed for the period covering the purchase. The information shall be retained in accordance with section 271. No such authority shall be granted or exercised, except upon application to and acceptance by the department, in the department's discretion. If authority is granted, it shall be subject to conditions specified by the department.

* * *

Section 7. Section 268(b) of the act is amended 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, ***except as otherwise provided,*** 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.]** ***That any person may advertise or hold out or state 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 and paid by such person subject to the following conditions:***

(i) Such person shall expressly state on any receipt, invoice, sales slip or other similar document evidencing such sale given to the purchaser that such person will pay the tax imposed by this article on behalf of such purchaser and shall not indicate or imply that the transaction is exempt or excluded from any tax imposed by this article.

(ii) Any receipt, invoice, sales slip or other similar document evidencing a sale given to the purchaser shall separately state the amount of tax.

(iii) Such person, when recording the sale in the person's books and records, shall separately state the purchase price and the tax.

(iv) The amount of tax shall be calculated by multiplying the total purchase price by the rate of tax imposed by section 202.

(3) If any person advertises or holds out or states to the public or to any purchaser or user, directly or indirectly, that such person will absorb and pay the tax, subject to the conditions of this subsection, such person shall be solely responsible and liable for any tax imposed by this article, notwithstanding any provisions of this article to the contrary, and shall not be entitled to a refund of such tax.

* * *

Section 8. The act is amended by adding a section to read:

Section 279. Class Actions.—A class action may not be brought against a marketplace facilitator on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator, regardless of whether such action is characterized as a tax refund claim. Nothing in this section shall affect a purchaser's right to seek a refund from the department under other provisions of this article.

Section 9. (Reserved).

Section 10. Section 303(a)(5) and (a.7)(2) of the act are amended and subsection (a)(3) is amended by adding a subparagraph to read:

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

* * *

(3) Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real property, tangible personal property, intangible personal property or obligations issued on or after the effective date of this amendatory act by the Commonwealth; any public authority, commission, board or other agency created by the Commonwealth; any political subdivision of the Commonwealth or any public authority created by any such political subdivision; or by the Federal Government as determined in accordance with accepted accounting principles and practices. For the purpose of this article:

* * *

(viii) The term "net gains or income" and "net losses" shall not include gains or income or losses which are excluded from Federal taxation under section 1400Z-2 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1400Z-2), as amended. Net gains or net income, less net losses, which are excluded under this subparagraph shall be included in income to the extent they are included in gross income under section 1400Z-2(b) of the Internal Revenue Code of 1986, as amended. Section 1400Z-2(c) of the Internal Revenue Code of 1986, as amended, shall apply in the computation of net gains or net income and net losses.

* * *

(5) Dividends. ***The term "dividends" shall not include gains or income or losses which are excluded from Federal taxation under section 1400Z-2 of the Internal Revenue Code of 1986, as amended. Gains or income or losses which are excluded under this subparagraph shall be included in income to the extent they are included in gross income under section 1400Z-2(b) of the Internal Revenue Code of 1986, as amended. Section 1400Z-2(c) of the Internal Revenue Code of 1986, as amended, shall apply in the computation of net gains or net income and net losses.***

* * *

(a.7) The following apply:

* * *

(2) (i) The following shall not be subject to tax under this article:

(A) Any amount distributed from a qualified tuition program that is excludable from tax under section 529(c)(3)(B) of the Internal Revenue Code of 1986, as amended.

(B) Any rollover that is excludable from tax under section 529(c)(3)(C) of the Internal Revenue Code of 1986, as amended.

(C) Undistributed earnings on a qualified tuition program.

(D) The value of a medal awarded by or prize money received from the United States Olympic Committee on account of competition in the Olympic Games or Paralympic Games.

(ii) A change in designated beneficiaries under section 529(c)(3)(C) of the Internal Revenue Code of 1986, as amended, shall not constitute a taxable event under this article.

* * *

Section 10.1. The act is amended by adding a section to read:

Section 315.14. Contribution for Veterans' Trust Fund.—(a) For taxable years beginning after December 31, 2019, the department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution, in any amount, to the Veterans' Trust Fund. The amount so designated 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.

(b) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer who shall transfer the amount to the Veterans' Trust Fund.

(c) The department shall provide adequate information concerning the checkoff for the Veterans' Trust Fund in its instructions which accompany the Pennsylvania income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Military and Veterans Affairs to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds.

(d) The Department of Military and Veterans Affairs shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over military and veterans affairs on the amount received via the checkoff plan and how the funds were utilized.

Section 10.2. Section 331(g) of the act is amended to read:

Section 331. Returns of Married Individuals, Deceased or Disabled Individuals and Fiduciaries.—* * *

(g) The return for an estate or trust shall be made and filed by the fiduciary. If two or more fiduciaries are acting jointly, the return may be made by any one of them. ***If the executor of the estate and trustee of the trust make an election under section 645 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 645), as amended, to treat the income of the trust as part of the estate, the fiduciary may make and file a joint tax return for the estate and trust under this subsection for the taxable years when the trust income is reported as part of the estate income in accordance with section 645 of the Internal Revenue Code of 1986, as amended. If the income tax liabilities of the estate and trust are filed on a joint tax return under this subsection, the tax liabilities of the estate and trust shall be joint and several. The provisions of subsection (d) shall be applicable to a joint tax return filed under this subsection.***

Section 10.3. The act is amended by adding a section to read:

Section 336.3. Paid Tax Return Preparers; Required Information on Personal Income Tax Returns.—(a) For taxable years beginning on or after January 1, 2020, any personal income tax return prepared by a paid

tax return preparer shall be signed by the paid tax return preparer and shall bear the paid tax return preparer's Internal Revenue Service preparer tax identification number.

(b) (1) The department may impose an administrative penalty of fifty dollars ($50) on a paid tax return preparer each time the paid tax return preparer fails to sign the return or fails to provide the preparer's tax identification number.

(2) The maximum amount imposed on any individual paid tax return preparer under paragraph (1) shall not exceed twenty-five thousand dollars ($25,000) per paid tax return preparer in a calendar year.

(c) As used in this section:

"Paid tax return preparer" shall mean a person who prepares for compensation, or employs one or more persons to prepare for compensation, a personal income tax return required to be filed under this act. Preparation of a substantial portion of a personal income tax return shall be treated as if it were the preparation of the personal income tax return.

Section 10.4. Section 407.7(a) and (d)(1) and (2) of the act are amended and subsection (d) is amended by adding paragraphs to read:

Section 407.7. Manufacturing Innovation and Reinvestment Deduction.—(a) In order to be eligible to receive a manufacturing innovation and reinvestment deduction, a taxpayer must demonstrate to the department a *private* capital investment in excess of **[one hundred million dollars ($100,000,000)]** *sixty million dollars ($60,000,000)* for the creation of new or refurbished manufacturing capacity within three years of a designated start date.

* * *

(d) **[(1) Upon determining a taxpayer's satisfaction of the eligibility criteria, the department shall calculate the maximum allowable deduction that a taxpayer may claim against the taxpayer's taxable income under this article. The deduction shall be equal to five per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity per tax year for a period of five years.**

(2) A taxpayer may utilize the amount of the deduction in each year of the succeeding five tax years immediately following the department's satisfaction determination and the execution of a satisfaction commitment letter.]

(1.1) If the private capital investment is in excess of sixty million dollars ($60,000,000), but not more than one hundred million dollars ($100,000,000), the maximum allowable deduction shall be equal to thirty-seven and one-half per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity. A taxpayer may utilize the deduction in an amount not to exceed seven and one-half per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity in any one year of the succeeding ten tax years immediately following the department's satisfaction determination and the execution of a satisfaction commitment letter, up to the maximum allowable deduction.

(1.2) If the private capital investment exceeds one hundred million dollars ($100,000,000), the maximum allowable deduction shall be equal to twenty-five per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity. A taxpayer may utilize the deduction in an amount not to exceed five per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity in any one year of the succeeding ten tax years immediately following the department's satisfaction determination and the execution of a satisfaction commitment letter, up to the maximum allowable deduction.

* * *

Section 10.5. 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:

"Agricultural production." As defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law."

* * *

"Qualified beginner farmer." A person that:

(1) Has demonstrated experience in the agriculture industry or related field or has transferable skills as determined by the Department of Agriculture.

(2) Has not received Federal gross income from agricultural production for more than the ten most recent taxable years.

(3) Intends to engage in agricultural production within the borders of this Commonwealth and to provide the majority of the labor and management involved in that agricultural production.

(4) Has obtained written certification from the Department of Agriculture confirming qualified beginner farmer status.

* * *

Section 10.6. Section 1102-C.3(18) of the act is amended by adding a subparagraph 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:

* * *

(vii) A transfer of real estate that is subject to an agricultural conservation easement established under authority of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," to a qualified beginner farmer.

* * *

Section 10.7. The act is amended by adding a section to read:

Section 1102-C.6. Transfer of Tax.—(a) Subject to subsection (b), beginning July 31, 2019, and each July 31 thereafter, the State Treasurer shall transfer from the General Fund to the Housing Affordability and Rehabilitation Enhancement Fund under Article IV-D of the act of

December 3, 1959 (P.L.1688, No.621), known as the "Housing Finance Agency Law," an amount equal to forty per cent of the difference between:

(1) the total amount of the tax imposed under section 1102-C and collected by the Commonwealth for the prior fiscal year; and

(2) the total dollar amount of such tax estimated for the fiscal year beginning July 1, 2014, and as contained in the final estimate signed by the Governor for that fiscal year as required by section 618 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(b) The amount transferred under subsection (a) may not exceed forty million dollars ($40,000,000).

(c) Nothing in this section shall be construed to reduce or prohibit increased funding for the Housing Affordability and Rehabilitation Enhancement Fund or the Keystone Recreation, Park and Conservation Fund as provided in the "Housing Finance Agency Law" or other law.

Section 10.8. The definition of "postproduction expense" in section 1711-D of the act is amended and the section is amended by adding a definition to read:

Section 1711-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:

* * *

"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.

(ix) The purchase of music rights if the following apply:

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

(B) 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.

(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).

* * *

"Tax district capital investment." Investment within a film production tax credit district that may consist of new construction, renovation, real property improvement and a similar investment as well as other economic development expenditures within the Commonwealth arising directly from the investment.

* * *

Section 10.9. Section 1714-D(f) of the act is amended and the section is amended by adding a subsection to read:

Section 1714-D. Carryover, carryback and assignment of credit.

* * *

(f) Purchasers and assignees.—Except as **[set forth in subsection (g)]** ***provided in subsections (g) and (h)***, 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.

* * *

(h) Full utilization of tax credits.—A tax credit awarded under this article may be sold or assigned to a purchaser or assignee included in the same Federal consolidated tax return as permitted under sections 1501 and 1502 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 1501 and 1502), filed by the taxpayer under subsection (a) to reduce or eliminate the qualified tax liability to the same extent allowable for the taxpayer under subsections (a), (b) and (c). Tax credits sold or assigned under this subsection are limited to the taxable year in which the purchase or assignment is made and may only be carried forward for the remainder of the carryforward period of the original credit.

Section 11. Sections 1716-D(a) and 1716.2-D(b) of the act are amended to read:

Section 1716-D. Limitations.

(a) Cap.—Except for tax credits reissued under section **[1761.1-D]** ***1716.1-D***, in no case shall the aggregate amount of tax credits awarded in any fiscal year under this subarticle exceed **[$65,000,000]** ***$70,000,000***. 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.

* * *

Section 1716.2-D. Film production tax credit districts.

* * *

(b) Criteria.—A film production tax credit district shall:

(1) Be at least 55 acres in size.

(2) Be located on deteriorated property.

(3) Be comprised of a parcel that is or will be occupied by two or more qualified businesses that:

(i) in the aggregate, make a ***tax district*** capital investment of at least $400,000,000 **[within the district]** within **[five]** ***eight*** years after the effective date of the designation of the district; and

(ii) are dedicated to film production activity, postproduction activity or other activities that directly or indirectly support film production activity occurring within the district or within this Commonwealth.

(4) Contain at least one qualified production facility and **[six]** ***two*** sound stages.

* * *

Section 12. The definitions of "minimum rehearsal and tour requirements," "rehearsal expense," "rehearsal facility," "taxpayer" and "tour expense" in section 1772-D of the act are amended and the section is amended by adding a definition to read:

Section 1772-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:

* * *

"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.

(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.

(5) The taxpayer shall maintain a place of business in this Commonwealth or employ a representative for the period beginning with the start date and ending with the award of tax certificates under section 1773-D(e).

* * *

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

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

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

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

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

(5) The cost of leasing vehicles.

(6) 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.

(6.1) The cost of ground transportation of individuals for an entire tour if the ground transportation is purchased or will be purchased from a transportation company maintaining a place of business in this Commonwealth and is provided or will be provided by a resident of this Commonwealth.

(6.2) The cost of ground transportation of concert tour equipment for an entire tour if the ground transportation is purchased or will be purchased from a transportation company maintaining a place of business in this Commonwealth and is provided or will be provided by a resident of this Commonwealth.

(7) The cost of insurance coverage**[.]** ***for an entire tour if the insurance coverage is purchased or will be purchased through an insurance agent maintaining a place of business in this Commonwealth.***

(8) The cost of food and lodging.

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

(10) The cost of renting a rehearsal facility.

(11) 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]** ***20,000*** square feet of column-free, unobstructed floor space.

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

"Representative." A person that meets all of the following criteria:

(1) Is authorized to communicate with the department on behalf of a taxpayer regarding an application submitted under section 1773-D(e).

(2) Maintains a place of business in this Commonwealth.

(3) Has substantial experience working with the Pennsylvania live events industry.

* * *

"Taxpayer." A **[concert tour promotion company, concert tour management company or other concert management company]** ***musical performer or performers or a concert tour management company of a musical performer or performers*** 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 company or other**

concert management company] ***musical performer or performers or of a concert tour management company of a musical performer or performers.***

* * *

"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 which is made or will be made by a recipient to a person upon which withholding will be made on the payment by the recipient as required under Part VII of Article III or a payment which is made or will be made to a person who is required to make estimated payments under Part VIII of Article III.

(ii) The cost of transportation of people **[or concert touring equipment]** which is incurred or will be 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 which is incurred or will be 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 which is purchased or will be 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 which is incurred or will be incurred from a facility located in this Commonwealth.

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

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

(ix) A payment which is made or will be made 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.

(x) A payment which is made or will be made 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.

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

* * *

Section 13. Sections 1775-D and 1777-D of the act are amended to read:

Section 1775-D. Carryover, carryback and assignment of tax credit.

(a) General rule.—If a recipient 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 recipient 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 recipient 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 recipient'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 tax liability under subsection (a).

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

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

(1) A recipient, upon application to and approval by the department, may sell or assign, in whole or in part, a tax credit granted to the recipient 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 recipient 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 a taxpayer under this subsection within 60 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.

(e) Purchasers and assignees.—The following apply:

(1) The purchaser or assignee of all or a portion of a tax credit under subsection (d) shall immediately claim the tax 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 one qualified tax liability may not exceed 50% of the 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.

(f) Exception.—Notwithstanding any other provision of law to the contrary, a recipient which held a rehearsal after January 1, 2017, but before October 1, 2018, may use the tax credit granted to the recipient under this subarticle against the recipient's 2018 qualified tax liability or

may sell or assign the tax credit granted to the recipient under this subarticle upon satisfaction of the recipient's 2018 qualified tax liability.

Section 1777-D. Limitations.

(a) Cap.—**[Except as provided in this subsection, the department may not award tax credits for qualified rehearsal and tour expenses incurred or to be incurred related to more than five tours in a fiscal year.]** ***The aggregate amount of tax credits awarded in a fiscal year under this subarticle may not exceed $8,000,000.*** In a fiscal year, the department may, in the department's discretion, advance the award of tax credits for qualified rehearsal and tour expenses incurred or to be incurred **[related to a maximum of two additional tours.]** ***equal to $2,000,000 of the tax credits available to be awarded in the succeeding fiscal year.***

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

(1) count against the total **[number of tours]** ***amount of tax credits*** that the department may award **[tax credits]** for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that next succeeding fiscal year; and

(2) reduce the **[number of tours]** ***total amount of tax credits*** that the department may award **[tax credits]** for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that next succeeding fiscal year.

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

(1) **[A taxpayer may not be awarded more than $800,000 of tax credits for a tour.]** ***If a taxpayer's purchase or rental of concert tour equipment from companies located and maintaining a place of business in this Commonwealth for use on a tour is at least $3,000,000 but less than $4,000,000, the taxpayer may not be awarded more than $800,000 of tax credits for the tour.***

(1.1) If a taxpayer's purchase or rental of concert tour equipment from companies located and maintaining a place of business in this Commonwealth for use on a tour is at least $4,000,000 but less than $8,000,000, the taxpayer may not be awarded more than $1,250,000 of tax credits for the tour.

(1.2) If a taxpayer's purchase or rental of concert tour equipment from companies located and maintaining a place of business in this Commonwealth for use on a tour is at least $8,000,000, the taxpayer may not be awarded more than $2,000,000 of tax credits for the tour.

(2) Except as provided under paragraph (5), the aggregate amount of tax credits awarded by the department under section 1773-D(e) 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 1773-D(e) 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 1773-D(e) 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 1772-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 under section 1772-D. If the 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 13.1. The definitions of "conservation plan," "eligible applicants" and "riparian forest buffer" in section 1702-E of the act are amended and the section is amended by adding definitions to read:

Section 1702-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:

* * *

"Conservation plan." A ***United States Department of Agriculture Natural Resources Conservation Service*** plan, including a schedule for implementation, that identifies site-specific conservation best management practices on an agricultural operation.

* * *

"Eligible applicants." **[A business firm or an individual who is subject to the taxes imposed by Article III, IV, VI, VII, VIII, IX or XV.]** ***Any of the following subject to the taxes imposed by Article III, IV, VI, VII, VIII, IX or XV:***

(1) A business firm.

(2) An individual.

(3) Individuals filing jointly.

* * *

"Manure management plan." A written site-specific plan that:

(1) outlines practices for the land application of manure and agricultural process wastewaters acceptable to the commission; and

(2) is developed to meet the requirements of 25 Pa. Code § 91.36(b) (relating to pollution control and prevention at agricultural operations).

* * *

"Riparian forest buffer." An area of mostly trees or shrubs which is adjacent to and up-gradient from watercourses or water bodies and which meets standards established **[by the United States Department of Agriculture Natural Resources and Conservation Service]** ***or adopted by the commission.***

* * *

"Total maximum daily load" or "TMDL." The sum of individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality and a margin of safety expressed in terms of mass per time, toxicity or other appropriate measures.

* * *

Section 13.2. Sections 1703-E(b)(1), (2) and (5) and (c), 1704-E(a)(2), (4) and (5), (b)(1)(i), (2) and (3) and (c), 1705-E(2) and (3), 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of the act are amended and section 1704-E(b) is amended by adding a paragraph to read:

Section 1703-E. Resource Enhancement and Protection Tax Credit Program.

* * *

(b) Limits.—The following limits shall apply:

(1) Except as set forth in paragraph (5), an eligible applicant may be granted a maximum of **[$150,000 in tax credits under this program]** ***$250,000 in tax credits in any consecutive seven-year period, calculated from the date the tax credit is issued.***

(2) **[No more than $150,000 in tax credits shall be granted toward projects for an agricultural operation.]** ***An agricultural operation may be granted a maximum of $250,000 in tax credits in any consecutive seven-year period, calculated from the date the tax credit is issued.***

* * *

(5) Notwithstanding paragraph (1), there shall be no limit on the amount of tax credits granted to a sponsor under subsection (e)**[.]**, ***except the commission may establish annual aggregate limits on tax credits awarded to sponsors to ensure fair and equitable distribution of tax benefits to eligible applicants.***

* * *

(c) Carryover.—

(1) If the eligible applicant cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first granted, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the eligible applicant for those taxable years. Each time that the tax credit is carried over to a succeeding taxable year, it is to 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 eligible applicant was entitled to claim the credit.

(2) A tax credit granted by the department shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was granted before the tax credit is applied against any tax liability under paragraph (1).

(2.1) A tax credit granted under this article may be applied to the tax liability of the spouse of an eligible applicant if both the eligible applicant and the spouse report income on a joint income tax return.

(3) A tax credit granted under this article shall not be carried back or refunded.

* * *

Section 1704-E. Tax credits.

(a) General eligibility.—Projects shall be eligible for a tax credit as follows:

* * *

(2) An agricultural operation shall have in place a current conservation plan**[,]** ***or*** a current agricultural erosion and sediment control plan if engaged in plowing and tilling, and a current nutrient management plan ***or manure management plan,*** if required, or the development of such plans shall be included in an application for a tax credit.

* * *

(4) An agricultural operation with an uncompleted best management practice of either ***a conservation plan or*** an agricultural erosion and sediment control plan if engaged in plowing and tilling or a nutrient management plan ***or manure management plan,*** if required**,** shall first include the remaining best management practices included in such plans in an application for a tax credit.

(5) A project shall meet the ***planning,*** design **[and],** construction ***and certification*** standards established by the commission. If standards do not exist for a best management practice approved by the commission, the commission may establish or approve ***planning,*** design, construction and certification standards for such a best management practice.

(b) Amount of tax credit.—

(1) A tax credit equal to 75% of the eligible costs under subsection (c) of a project authorized under section 1707-E shall be granted for any of the following:

(i) Development of a voluntary or mandatory nutrient management plan ***or manure management plan.***

* * *

(2) A tax credit equal to 50% of the eligible costs under subsection (c) of a project authorized under section 1707-E shall be granted for any of the following:

(i) For an agricultural operation, design and implementation of agricultural best management practices or the installation and use of equipment, provided that the best management practice or equipment is necessary to reduce existing sediment and nutrient pollution to surface waters. Such best management practices and equipment shall

be identified by the commission and may include manure storage systems, alternative uses for manure, filter strips, grassed waterways, management intensive grazing systems and no-till planting equipment.

(ii) Design and implementation of best management practices necessary to exclude livestock access to streams through fencing, stabilized crossings and improved watering systems, if there is established and maintained a vegetated riparian or riparian forest buffer with a minimum width of 35 feet.

(iii) The remediation of legacy sediment, if the legacy sediment is exposed and discharges or threatens to discharge into surface waters as a result of acute stream bank erosion. The project shall meet standards established by the commission as being effective in mitigating or eliminating the harmful effects of legacy sediment.

[(3) A tax credit equal to 25% of the eligible costs under subsection (c) of a project authorized under section 1707-E shall be granted for the remediation of legacy sediment if the legacy sediment is exposed and is discharging or threatens to discharge into surface waters as a result of acute stream bank erosion. The project shall meet standards established by the commission as being effective in mitigating or eliminating the harmful effects of legacy sediment.]

(4) Notwithstanding any other provision of this section, a tax credit equal to 90% of the eligible costs under subsection (c) of a project authorized under section 1707-E may be granted for certain high-priority best management practices as determined by the commission and implemented within a watershed covered under an approved TMDL, including:

(i) Riparian forest buffers and their maintenance.

(ii) Livestock exclusion from streams and supporting practices.

(iii) Stream crossings.

(iv) Cover crops.

(v) Soil health best management practices as determined appropriate by the commission.

(vi) Other best management practices as determined appropriate by the commission.

(c) Costs of project.—

(1) The following shall be considered eligible costs of a project to which a tax credit may be applied:

(i) Project design, engineering and associated planning.

(ii) Project management costs, including contracting, document preparation and applications.

(iii) Project construction or installation.

(iv) Equipment, materials and all other components of projects eligible under subsection (a).

(v) Postconstruction inspections.

(vi) Interest payments on loans for project implementation for up to one year prior to the award of the tax credit.

(2) A tax credit shall not be applied to that portion of a project cost for which public funding was received.

(3) Eligible costs of a project shall include any of the services listed in paragraph (1) that may be provided by a conservation district.

(4) Notwithstanding any other provision of this article, tax credits for annual maintenance best management practices, such as cover crops, buffer maintenance and other annual practices approved by the commission, shall not exceed fixed rates or schedules established by the commission in annual program guidelines.

Section 1705-E. Project certification.

A project shall be certified by the commission as meeting standards under section 1704-E(a)(5) by the following:

* * *

(2) riparian forest buffer: technical service provider or staff from a conservation district or USDA-NRCS ***approved by the commission***;

(3) **[nutrient management plan: nutrient management specialist]** ***nutrient management plan or manure management plan: a nutrient management specialist or any person trained and experienced in manure and nutrient management planning techniques and whose qualifications are acceptable to the commission***; and

* * *

Section 1709-E. Annual tax credits.

(a) Total amount.—The total amount of tax credits authorized by the commission shall not exceed **[$10,000,000]** ***$13,000,000*** in any fiscal year.

(b) Chesapeake Bay watershed prioritization.—Notwithstanding any provision of this article to the contrary, the commission may reserve and target up to $3,000,000 of the total amount under subsection (a) in any fiscal year for geographic areas and best management practices for nutrient and sediment reductions within the Chesapeake Bay watershed area.

Section 1702-H. 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:

"Commission." The Pennsylvania Historical and Museum Commission.

"Completed project." The completion of the **[restoration]** ***rehabilitation*** of a qualified historic structure in accordance with a qualified rehabilitation plan and the receipt of an occupancy certificate for the structure.

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

"Internal Revenue Code." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

"Qualified expenditures." The costs and expenses incurred by a qualified taxpayer in the **[restoration]** ***rehabilitation*** of a qualified historic structure pursuant to a qualified rehabilitation plan and which are defined as qualified rehabilitation expenditures under section 47(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(2)).

"Qualified historic structure." A **[commercial]** building located in this Commonwealth that qualifies as a certified historic structure under section 47(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(3)).

"Qualified rehabilitation plan." A plan to rehabilitate a qualified historic structure that is approved by the Pennsylvania Historical and Museum Commission as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the United States Secretary of the Interior.

"Qualified tax liability." 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, 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.

(2) Owns a qualified historic structure.

"Region." A community action team region as established by the Department of Community and Economic Development.

"Workforce housing project." A completed project in which, for a period of seven years after the building is placed in service, at least 20% of the units meet the Department of Housing and Urban Development's definition of "affordable" for individuals earning 80% of the area median income.

Section 1703-H. Tax credit certificates.

(a) Application.—

(1) A qualified taxpayer may apply to the Department of Community and Economic Development for a tax credit certificate under this section.

(2) The application shall be on the form required by the Department of Community and Economic Development **[and]**, shall include a qualified rehabilitation plan**[.]**, ***shall state whether the project meets the definition of "workforce housing project" and, if applicable, shall include the plan for the project to meet the definition of "workforce housing project."***

(3) **[The application shall be filed on or before February 1 for qualified expenditures incurred and to be incurred in connection with the completed project.]** ***The Department of Community and Economic Development shall establish an application processing fee. The fee structure shall be tiered based on the amount of tax credits requested and in no case shall exceed $2,000.***

(4) The proceeds of the fee under paragraph (3) shall be deposited into the Historic Rehabilitation Tax Credit Administration Account, which is established as a special fund in the State Treasury. The money in the account shall be appropriated on a continuing basis to the Department of Community and Economic Development and used by the commission and the Department of Community and Economic Development to offset the costs of the review of tax credit applications and awarding of tax credit certificates.

(5) The Department of Community and Economic Development shall begin accepting applications for credit certificates on October 1 and close the initial application period on October 31.

(b) Review, recommendation and approval.—

(1) The Department of Community and Economic Development shall forward applications received under this section to the commission for review.

[(2) The commission shall review the proposed rehabilitation plan, verify that the building is a qualified historic structure and recommend approval or disapproval to the Department of Community and Economic Development within 30 days of receipt of the application. The commission shall notify the qualified taxpayer within 15 days of its determination.]

(2.1) The commission shall review the proposed rehabilitation plan in each application, verify that the building is a qualified historic structure and by December 1 provide the Department of Community and Economic Development with a list of eligible projects.

(2.2) The Department of Community and Economic Development shall allocate the credits and release a list of allocated projects within 15 days. Applicants with approved allocations shall be provided with an award letter.

(2.3) Any amount of tax credit certificates up to the annual program limit of $5,000,000 not awarded within the initial application period shall be available on a first-come, first-served basis through a process determined by the Department of Community and Economic Development.

(3) The commission shall notify the Department of Community and Economic Development of verification of a completed project and notify the Department of Community and Economic Development of the amount of qualified expenditures incurred by the taxpayer in connection with the completed project.

(4) If the Department of Community and Economic Development has approved the application and received notification of a completed project, it shall issue the qualified taxpayer a tax credit certificate **[by April 1]** ***within 45 days of the receipt of an approved, completed project.*** A tax credit certificate issued under this section shall not exceed **[25%]** ***either:***

(i) twenty-five percent of qualified expenditures determined by the commission to have been incurred by the qualified taxpayer in connection with the completed project**[.]**; ***or***

(ii) thirty percent of qualified expenditures determined by the commission to have been incurred by the qualified taxpayer in connection with a workforce housing project.

(5) In granting tax credit certificates under this article, the Department of Community and Economic Development:

(i) Shall not grant more than **[$3,000,000]** ***$5,000,000*** in tax credit certificates in any fiscal year ***exclusive of any tax credit certificates not awarded or returned from previous fiscal years.***

(ii) Shall not grant more than $500,000 in tax credit certificates to a single qualified taxpayer in any fiscal year.

(iii) Shall assure that credits are awarded in an equitable manner to each region in this Commonwealth. However, credits allocated to a region that are unclaimed shall be promptly reallocated to eligible projects in other regions.

[(6) Tax credits under this article shall be made available on a first-come, first-served basis within the limitation established under subsection (b)(5).]

Section 1705-H. Carryover, carryback and assignment of credit.

* * *

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

(1) A qualified taxpayer ***or a purchaser or assignee of a tax credit obtained under section 1703-H or a shareholder, member or partner of a pass-through entity that was transferred the tax credit or a portion of the tax credit from such pass-through entity subject to section 1706-H,*** upon application to and approval by the Department of Community and Economic Development, may sell or assign, in whole or in part, a tax credit granted to the qualified taxpayer under this article.

(2) Before an application is approved, the department must find 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.

(e) Purchasers and assignees.—**[The purchaser or assignee of all or a portion of a tax credit obtained under section 1703-H shall immediately claim the credit in the taxable year in which the purchase or assignment is made. 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 the seller or assignor of the tax credit in compliance with procedures specified by the department.]**

(1) If a purchaser or assignee of all or a portion of a tax credit obtained under section 1703-H cannot use the entire amount of the tax credit for the taxable year in which the tax credit was purchased or assigned, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the purchaser or assignee for those taxable years.

(2) Each time a 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.

(3) The tax credit may be carried over and applied to succeeding taxable years for not more than seven taxable years following the first taxable year for which the qualified taxpayer was entitled to claim the credit.

(4) The purchaser or assignee may not carry back the credit or obtain a refund.

Section 1706-H. Pass-through entity.

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

* * *

Section 13.3. The act is amended by adding a section to read:

Section 1707.1-H. Annual report to General Assembly.

(a) Report on tax credit.—By October 1, 2020, and October 1 of each year thereafter, the Department of Community and Economic Development shall submit a report on the tax credit under this article to:

(1) The chairperson and minority chairperson of the Appropriations Committee of the Senate.

(2) The chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.

(3) The chairperson and minority chairperson of the Finance Committee of the Senate.

(4) The chairperson and minority chairperson of the Finance Committee of the House of Representatives.

(b) Report content.—The report shall include:

(1) The list of completed projects that have been awarded tax credits.

(2) The amount of Federal rehabilitation tax credits received by each completed project.

(3) The amount of State historic preservation incentive tax credits received by each completed project.

(4) Total project costs and the amount of private investment in each completed project.

(5) The total number of completed projects placed into service in the past year that were vacant for at least 12 months prior to commencement of rehabilitation work.

(6) The total number of completed projects placed into service in the past year that had not paid property taxes for at least 12 months prior to the commencement of rehabilitation work.

(7) The total number of temporary construction jobs and permanent jobs created by completed projects placed into service in the prior year.

(8) The amount of workforce housing projects placed into service in the prior year.

(c) Information to be posted on public Internet website.—Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information and shall be posted on the Department of Community and Economic Development's publicly accessible Internet website.

(d) Review of tax credit program.—The Department of Community and Economic Development, in cooperation with the commission, shall undertake a review of the Historic Preservation Incentive Tax Credit Program to determine the effectiveness of the program in preserving and rehabilitating the Commonwealth's historic structures and the impact these efforts have had on the stimulation of investment in this Commonwealth. The results of the review shall be included in the annual report due October 1, 2025.

Section 13.4. Sections 1708-H and 1709-H of the act are amended to read:

Section 1708-H. Application of Internal Revenue Code.

The provisions of section 47 of the Internal Revenue Code and the regulations promulgated regarding those provisions shall apply to the

department's interpretation and administration of the credit provided under this article ***without regard to ratably allocating the credit over a five-year period as required by section 47(a) of the Internal Revenue Code.*** References to the Internal Revenue Code shall mean the sections of the Internal Revenue Code as existing on any date of interpretation of this article, except, if those sections of the Internal Revenue Code referenced in this article are repealed or terminated, references to the Internal Revenue Code shall mean those sections last having full force and effect ***without regard to ratably allocating the credit over a five-year period as required by section 47(a) of the Internal Revenue Code.*** If after repeal or termination the Internal Revenue Code sections are revised or reenacted, references in this article to Internal Revenue Code sections shall mean those revised or reenacted sections.

Section 1709-H. Limitation.

Taxpayers shall not be entitled to apply for historic preservation tax credits after **[the seventh fiscal year following the effective date of this article]** ***February 1, 2031.***

Section 13.5. The act is amended by adding a section to read:

Section 1710-H. Recapture.

In the event that a tax credit or a portion of a tax credit is subject to recapture and the tax credit has been purchased, assigned or transferred, the Commonwealth shall pursue its recapture remedies and rights against the qualified taxpayer that applied for the credit. No redress shall be sought against an assignee, purchaser or transferee of the tax credit if the assignee, purchaser or transferee acquired the tax credit by way of an arm's-length transaction, for value and without notice of violation, fraud or misrepresentation.

Section 14. Section 1703-J of the act is amended by adding definitions to read:

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:

* * *

"Federal coal refuse reclamation tax credit amount." The actual amount of tax credits obtained by an eligible facility under a Federal coal refuse reclamation tax credit program in the four Federal tax quarters that precede the fiscal year in which credits are awarded under section 1707-J(a).

"Federal coal refuse reclamation tax credit program." A program established under the Federal Internal Revenue Code that provides a tax credit for an eligible facility against Federal income taxes based upon the amount of coal refuse used at the eligible facility.

* * *

Section 15. Section 1704-J(d) of the act is amended and the section is amended by adding a subsection to read:

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

* * *

(c.1) Netting of Federal tax credit.—If a Federal coal refuse reclamation tax credit program is adopted and becomes effective, the following shall apply:

(1) Each eligible facility shall report as part of its application under subsection (a) the Federal coal refuse reclamation tax credit amount received by the eligible facility for the four Federal tax quarters that immediately preceded the submittal of the application.

(2) The amount of tax credits received by an eligible facility as calculated under subsection (b) shall be reduced by the Federal coal refuse reclamation tax credit amount received by the eligible facility for the four Federal tax quarters that immediately preceded the submittal of the application under this section.

(d) Expiration.—The department may not approve an application for a tax credit under this article after December 31, **[2026]** *2036*.

Section 16. Section 1707-J(a) of the act is amended to read:

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]**, *$10,000,000 in fiscal years 2017-2018 and 2018-2019 and $20,000,000 in each fiscal year thereafter*.

* * *

Section 17. Section 1803-B of the act is amended by adding a subsection to read:

Section 1803-B. Application process.

* * *

(e) Expiration.—The department may not approve an application for a tax credit under this article after June 30, 2020.

Section 17.1. The definition of "infrastructure" in section 1802-C of the act 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:

* * *

"Infrastructure." Any improvements in or out of the zone **[primarily]** *that the contracting authority determines to be* related to the development of **[and required by]** a facility in the zone, including, but not limited to, *improvements 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.

* * *

Section 17.2. Section 1813-C(a) of the act is amended by adding a paragraph to read:

Section 1813-C. Restrictions.

(a) Utilization.—Money transferred under section 1812-C may only be utilized for the following:

* * *

(1.1) Payment of debt service on bonds issued or refinanced to establish a revolving loan fund that will provide financial assistance in the form of a loan to a qualified business acquiring property for the business, constructing a new facility, reconstructing or renovating an existing facility or acquiring new equipment to be used by the qualifying business in a zone.

* * *

Section 18. The definitions of "principal business operations," "rural business" and "rural growth investment" in section 1822-G of the act are amended and the section is amended by adding definitions to read:

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:

* * *

"Full-time equivalent employee." The quotient obtained by dividing the total number of hours for which employees were compensated for employment over the preceding 12-month period by 2,080.

* * *

"Jobs created." Full-time equivalent employee positions that:

(1) Are created by the rural business.

(2) Are currently located in this Commonwealth.

(3) Were not located in this Commonwealth at the time of the rural growth investment in the rural business.

(4) Pay at least 150% of the Federal or State minimum wage, whichever is greater.

"Jobs retained." Full-time equivalent employee positions that:

(1) Are located in this Commonwealth.

(2) Existed before the initial rural growth investment in the rural business.

(3) Pay at least 150% of the Federal or State minimum wage, whichever is greater.

(4) Would have been lost or moved out of this Commonwealth had a rural growth investment not been made, as certified in writing by an executive officer of the rural business and approved by the department.

"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 ***or an in-State business that has agreed to hire 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.

* * *

"Rural business." A business that, at the time of the initial ***rural growth*** investment in the business by a rural growth fund, meets the following conditions:

(1) Has fewer than **[250]** ***150*** 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 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. ***A secured loan or a revolving line of credit provided to a rural business is a rural growth investment only if the growth fund obtains an affidavit from the president or chief executive officer or equivalent position of the rural business attesting that the rural business sought and was denied similar financing from a commercial bank.***

"State repayment amount." The amount by which the rural growth fund's credit-eligible capital contributions exceed the product obtained by multiplying $30,000 by the aggregate number of jobs created and jobs retained reported in annual reports under section 1827-G(b).

* * *

Section 19. Sections 1824-G(b)(2) and (3), (d)(4) and (e), 1825-G(a)(2), 1826-G(a), 1827-G, 1828-G(c), 1829-G(b)(2.1) and (3), 1830-G(a), 1832-G(c), 1833-G(a) and 1834-G(a) of the act are amended to read:

Section 1824-G. Rural growth funds.

* * *

(b) Information.—An application to qualify as a rural growth fund shall include all of the following:

* * *

(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.

(iii) At least one principal in a rural business investment company or a small business investment company has been an officer or employee of the applicant or of an affiliate of the applicant for at least four years prior to the date the application is submitted.

(3) An estimate of the number of jobs **[that will be]** created or retained in this Commonwealth **[as a result of]** ***that will result from*** the applicant's rural growth investments.

* * *

(d) Notice of approval or disapproval.—

* * *

(4) An applicant may resubmit the application within 30 days after receipt of a notice of disapproval**[.]** ***and provide additional information to complete, clarify or cure defects identified in the application by the department. The department shall consider that application submitted before any pending applications submitted after the date the application was originally submitted.***

(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 ***rural*** growth fund **[proposed]** ***proposes*** 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 ***rural*** growth fund proposes to invest shall be considered a rural business.

* * *

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:

* * *

(2) Collect one or more investments of cash that, when added to the contributions collected under paragraph (1), equal the ***rural growth*** fund's investment authority. At least 10% of the ***rural growth*** fund's investment authority shall be comprised of equity investments contributed***, directly or indirectly,*** by affiliates of the rural growth fund, including employees, officers and directors of the affiliates.

* * *

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 ***rural growth*** 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.

* * *

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.

(5) A copy of the commitment letter or summary of the terms and conditions of the rural growth investment offered to and accepted by the rural business.

(b) Annual report.—No later than March 1 of each year following the **[year in which the report required under subsection (a) is due,]** ***closing date*** 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.]** ***and retained by each rural business. The number of jobs created and retained shall be calculated as follows:***

(i) The number of jobs created by a rural business is calculated each year by subtracting the number of full-time equivalent employee positions in this Commonwealth at the time of the initial rural growth investment in the rural business from the monthly average of those employment positions for that year. If the number calculated is less than zero, the number shall be reported as zero. The monthly average of full-time equivalent employee positions for a year is calculated by adding together the number of full-time equivalent employee positions existing on the last day of each month of the year and dividing by 12.

(ii) The number of jobs retained by a rural business is calculated each year based on the monthly average of full-time equivalent employee positions for that year. The monthly average of full-time equivalent employee positions for a year is calculated by adding together the number of full-time equivalent employee positions existing on the last day of each month of the year and dividing by 12. The reported number of jobs retained for a year may not exceed the number reported on the annual report under this subsection. The rural growth fund shall reduce the number of jobs retained for a year if employment at the rural business drops below the number reported on the annual report.

(1.1) If not provided under subsection (a)(2), the name and location 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.

(2) The average **[annual salary]** ***hourly wage*** of the jobs reported in paragraph (1).

(3) Any other information required by the department.

(c) Report of rural business.—

(1) No later than March 1 of each year following the year in which the report required under subsection (a) is due, a rural business that receives a rural growth investment shall submit the following information on a form required by the department:

(i) The number of jobs existing at the rural business prior to the rural growth investment.

(ii) The number of new jobs created as a result of the rural growth investment.

(iii) The number of jobs retained as a result of the rural growth investment.

(2) Failure by the rural business to submit the report may result in the reduction of investment authority or credit-eligible contribution authority of the rural growth fund.

Section 1828-G. Business firms.

* * *

(c) Limitation.—The department may not approve more than **[$4,000,000]** ***$30,000,000*** in credit-eligible capital contributions under this part.

Section 1829-G. Tax credit certificates.

* * *

(b) Review, recommendation and approval.—

* * *

(2.1) **[A tax credit]** ***Tax credits*** awarded under this section ***to a business firm*** shall not exceed **[90%]** ***the amount*** of the credit-eligible capital contributions made by **[a]** ***the*** business firm.

(3) In awarding tax credit certificates under this part, the department:

(i) Beginning with fiscal year **[2017-2018]** ***2019-2020***, may not award tax credit certificates that would result in the utilization of more than **[$1,000,000]** ***$6,000,000*** in tax credits in any fiscal year, except for tax credits carried forward.

(ii) May not award more than **[$4,000,000]** ***$30,000,000*** in tax credit certificates, in the aggregate, under this part.

Section 1830-G. Claiming the tax credit.

(a) Presentation.—Beginning July 1, **[2017]** ***2019***, upon presenting a tax credit certificate to the Department of Revenue, a business firm may claim a tax credit of up to **[25%]** ***20%*** of the amount awarded under section 1829-G for each of the taxable years that includes the third, fourth, fifth **[and]**, sixth ***and seventh*** anniversaries of the closing date, exclusive of any tax credit amounts carried over under section 1831-G(b).

* * *

Section 1832-G. Prohibitions.

* * *

(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 ***rural growth*** 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 ***rural growth*** 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]** ***three*** 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]** ***seventh*** anniversary of the closing date. For the purposes of this paragraph, **[an]** ***a rural growth*** investment is "maintained" even if the ***rural growth*** investment is sold or repaid so long as the rural growth fund reinvests an amount equal to the capital returned or recovered by the ***rural growth*** fund from the original ***rural growth*** 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]** ***sixth*** anniversary of the closing date, and the rural growth investments shall be considered held continuously by the rural growth fund through the **[sixth]** ***seventh*** 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. ***The amount by which a rural growth investment in a rural business, exclusive of receipts or redeemed rural growth investments, exceeds 20% of a rural growth fund's investment authority may not count toward the satisfaction of the requirements of subsection (a)(1) and (2).***

* * *

Section 1834-G. Exit.

(a) Application for exit.—On or after the **[sixth]** ***seventh*** 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. ***A rural growth fund shall calculate the State repayment amount in its application for exit and if the product is greater than the rural growth fund's credit-eligible capital contributions, the State repayment amount shall equal zero.*** The department shall respond to the application within 30 days after receipt ***and confirm the State repayment amount.*** 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. ***If the rural growth fund owes a State repayment amount, the rural growth fund may not be permitted to make distributions or payments in excess of the investment authority until the rural growth fund first remits the State repayment amount to the department. All amounts received by the department under this section shall be credited to the General Fund.***

* * *

Section 19.1. Section 1902-A of the act is amended by adding a definition 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:

* * *

"Youth and adolescent development services." Financial assistance to provide services to youth and adolescents who are 21 years of age and younger, including job training and apprenticeship programs, job placement and retention training, education and after school programs, such as school programs with shared governance by students, teachers and parents, and activities for youth between the hours of 3 p.m. and 11 p.m., mentoring programs, conflict resolution skills training, sports, arts, life skills, employment and recreation programs, summer jobs, summer recreation programs and alternative school resources for youth who have dropped out of school or demonstrate chronic truancy.

Section 19.2. Section 1903-A of the act is amended to read:

Section 1903-A. Public Policy.—It is hereby declared to be public policy of this Commonwealth to encourage investment by business firms in offering neighborhood assistance and providing job training, education, crime prevention, ***youth and adolescent development services*** and community services, to encourage contributions by business firms to neighborhood organizations which offer and provide such assistance and services and to promote qualified investments made by private companies to rehabilitate, expand or improve buildings or land which promote community economic development and which occur in portions of impoverished areas which have been designated as enterprise zones.

Section 19.3. Section 1904-A(a) and (b.1) of the act are amended and the section is amended by adding a subsection 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, ***youth and adolescent development 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.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**[.]**; ***and***

(3) youth and adolescent development services.

* * *

(c.1) No more than two million dollars ($2,000,000) of the total amount of tax credit available under subsection (c) shall be used for youth and adolescent development services.

* * *

Section 20. Article XIX-D of the act is amended by adding a part to read:

PART III
ADDITIONAL DESIGNATIONS

Section 1921-D. Additional keystone opportunity expansion zones.

(a) Establishment.—In addition to any designations under Part II or section 301.1 of the KOZ Act, the department may designate one or more additional keystone opportunity expansion zones within the following counties:

(1) A county that has a population of at least 500,000 but less than 525,000 based on the 2010 Federal decennial census.

(2) A county that has a population of at least 140,000 but less than 145,000 based on the 2010 Federal decennial census.

(3) A county that has a population of at least 80,000 but less than 85,000 based on the 2010 Federal decennial census.

(b) Criteria.—Notwithstanding Part II and the KOZ Act, an additional keystone opportunity expansion zone under this part:

(1) May be less than 10 acres in size.

(2) May not exceed, in the aggregate, a total of 375 acres.

(3) Shall be comprised of parcels that are deteriorated, underutilized or unoccupied on the effective date of this paragraph.

(c) Authorization.—

(1) 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 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.

(2) 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.

(d) Application.—

(1) 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, 2021. The application must contain the information required under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ Act.

(2) 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.

(3) The department shall act on an application for a designation under section 302(a)(1) of the KOZ Act by December 31, 2021.

(4) The department may make designations under this section on a rolling basis during the application period.

(e) Disapproval.—If the department does not approve of a designation as an additional keystone opportunity expansion zone of a parcel under subsection (d), the department shall hold a public hearing in the municipality for which the application was made within 30 days of the disapproval. The Secretary of Community and Economic Development, or a designee, shall provide the following information at the public hearing:

(1) The reason for the disapproval.

(2) The estimated number of new jobs that would have been created in the parcel.

(3) The estimated dollar amount of new investment that would have been made in the parcel.

(4) An alternative economic development plan developed by the department that would, if implemented, provide an equivalent number of jobs and amount of investment in the municipality for which the application was made.

(f) Transparency.—The department shall conduct the public hearing required under subsection (e) in accordance with applicable provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

Section 20.1. Section 1907-E(a) of the act is amended to read:

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] ***$3,000,000*** 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.

* * *

Section 21. Section 2116(a)(2) of the act is amended and the clause is amended by adding a subclause to read:

Section 2116. Inheritance Tax.—(a) * * *

(1.4) Inheritance tax upon the transfer of property to or for the use of a child twenty-one years of age or younger from a natural parent, an adoptive parent or a stepparent of the child shall be at the rate of zero per cent.

(2) Inheritance tax upon the transfer of property passing to or for the use of all persons other than those designated in subclause (1), (1.1), (1.2) **[or],** (1.3) ***or (1.4)*** or exempt under section 2111(m) shall be at the rate of fifteen per cent.

* * *

Section 21.1. The heading of Article XXV and sections 2501 and 2502 of the act are reenacted 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 22. Section 2503 of the act is reenacted and amended to read:

Section 2503. Expiration.

(a) Expiration.—This article shall expire **[June 30, 2019]** ***August 1, 2021.***

[(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 23. Sections 2931-C and 2945-C of the act are amended by adding subsections to read:

Section 2931-C. Sales and use tax.

* * *

(c) Exclusive use, consumption and utilization.—In making a determination whether tangible personal property is for the exclusive use, consumption and utilization by the qualified business at its facility located within a strategic development area, the Department of Revenue shall construe the term "exclusive use, consumption and utilization" to include use, consumption or utilization at a location other than the facility of computers, laptops, tablet computers, computer hardware, related software, storage media, portable scanners and printers, mobile radio devices, cell phones, cell phone accessories, telecommunications services, global positioning systems and accessories and parts for motor vehicles, by an employee assigned to the facility within the strategic development area.

Section 2945-C. Local sales and use tax.

* * *

(b.1) Exclusive use, consumption and utilization.—In making a determination whether tangible personal property is for the exclusive use, consumption and utilization by the qualified business at its facility located within a strategic development area, the Department of Revenue and the political subdivision imposing the tax shall construe the term "exclusive use, consumption and utilization" to include use, consumption or utilization at a location other than the facility of computers, laptops, tablet computers, computer hardware, related software, storage media, portable scanners and printers, mobile radio devices, cell phones, cell phone accessories, telecommunications services, global positioning systems and accessories and parts for motor vehicles, by an employee assigned to the facility within the strategic development area.

* * *

Section 24. Section 2914-D(a) of the act is amended to read:

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]** *$7,000,000* in any fiscal year.

* * *

Section 25. The act is amended by adding an article to read:

ARTICLE XXIX-H
INDEPENDENT PUBLIC SCHOOLS

Section 2901-H. Taxability of independent public schools.

A charter school, regional charter school or cyber charter school, as defined in section 1703-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is an independent public school and shall be free from taxation within this Commonwealth to the same extent as a school district for purposes of the surplus lines tax under section 1621 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

Section 26. The addition of sections 201(g)(9), (eee), (fff), (ggg) and 202(h) of the act shall apply to sales of malt or brewed beverages sold by a

manufacturer of malt or brewed beverages occurring after September 30, 2019.

Section 27. The amendment or addition of section 204(49), (71) and (72) of the act shall apply to sales made after December 31, 2019.

Section 28. The amendment or addition of section 303(a)(3)(viii) and (5) of the act shall apply to tax years beginning after December 31, 2019.

Section 29. The amendment or addition of sections 331(g) and 336.3 of the act shall apply to tax years beginning after December 31, 2019.

Section 30. The amendment or addition of section 407.7(a) and (d)(1), (1.1) and (1.2) of the act shall apply to tax years beginning after December 31, 2019.

Section 31. The amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of the act shall apply to fiscal years beginning on or after July 1, 2019.

Section 32. The amendment or addition of section 2116(a)(1.4) and (2) of the act shall apply to property transferred by a natural parent, an adoptive parent or a stepparent who dies after December 31, 2019.

Section 32.1. The reenactment and amendment of section 2503 of the act shall apply retroactively to June 29, 2019.

Section 33. The following shall apply:

(1) The operation of sections 213, 213.1, 213.2, 213.3, 213.4, 213.5 and 213.6 of the act shall be suspended as of July 1, 2019.

(2) If section 201(b)(3.5) or 237(b)(1.2) of the act are deemed unconstitutional as a result of a decision of the Pennsylvania Supreme Court or if a substantially similar statute from another state is deemed unconstitutional by a decision of the United States Supreme Court, the Secretary of Revenue shall submit a notice of the decision to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(3) The suspension of sections 213, 213.1, 213.2, 213.3, 213.4, 213.5 and 213.6 of the act shall lapse as of the date of the publication of the notice under paragraph (2).

Section 34. The addition of sections 2931-C(c) and 2945-C(b.1) of the act shall not affect any audit, appeal or proceeding pending before the Department of Revenue, the Board of Finance and Revenue or a court of competent jurisdiction in this Commonwealth on the effective date of this section.

Section 35. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of section 1102-C.6 of the act.

(2) Section 406-D(c) of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law, is repealed.

Section 36. Continuation is as follows:

(1) The addition of section 1102-C.6 of the act is a continuation of section 406-D(c) of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law. The following apply:

(i) All activities initiated under section 406-D(c) of the Housing Finance Agency Law shall continue and remain in full force and effect and may be completed under section 1102-C.6 of the act of

March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. Orders, regulations, rules and decisions which were made under section 406-D(c) of the Housing Finance Agency Law and which are in effect on the effective date of section 35 of this act shall remain in full force and effect until revoked, vacated or modified under section 1102-C.6 of the Tax Reform Code of 1971. Contracts, obligations and collective bargaining agreements entered into under section 406-D(c) of the Housing Finance Agency Law are not affected nor impaired by the repeal of section 406-D(c) of the Housing Finance Agency Law.

(ii) Any difference in language between section 1102-C.6 of the Tax Reform Code of 1971 and section 406-D(c) of the Housing Finance Agency Law is not intended to change or affect the legislative intent, judicial construction or administration and implementation of section 406-D(c) of the Housing Finance Agency Law.

(2) (Reserved).

Section 37. The amendment of sections 2931-C and 2945-C of the act shall apply to taxable years beginning on or after January 1, 2019.

Section 38. This act shall take effect as follows:

(1) The following shall take effect immediately:

(i) This section.

(ii) The amendment or addition of section 303(a)(3)(viii) and (5).

(2) The amendment or addition of sections 1714-D(f) and (h), the definitions of "Federal coal refuse reclamation tax credit amount" and "Federal coal refuse reclamation tax credit program" in section 1703-J, 1704-J(c.1) and (d) and 1707-J(a) of the act shall take effect in 60 days.[1]

(3) The remainder of this act shall take effect July 1, 2019, or immediately, whichever is later.

APPROVED—The 28th day of June, A.D. 2019

TOM WOLF

[1]"(2) The amendment or addition of sections 1714-D(f) and (h), 1703-J(b)(1), (2) and (5) and (c)(1), (2), (2.1) and (3), 1704-J(a)(2), (4) and (5), (b)(1)(i), (2), (3) and (4) and (c) and 1707-J(a) of the act shall take effect in 60 days." in enrolled bill.