

AMENDMENTS TO HOUSE BILL NO. 542

Sponsor: SENATOR BROWNE

Printer's No. 1563

1 Amend Bill, page 1, lines 12 through 23, by striking out all
2 of said lines and inserting
3 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
4 act relating to tax reform and State taxation by codifying
5 and enumerating certain subjects of taxation and imposing
6 taxes thereon; providing procedures for the payment,
7 collection, administration and enforcement thereof; providing
8 for tax credits in certain cases; conferring powers and
9 imposing duties upon the Department of Revenue, certain
10 employers, fiduciaries, individuals, persons, corporations
11 and other entities; prescribing crimes, offenses and
12 penalties,"
13 further providing for the title of the act;
14 in sales and use tax, further providing for definitions,
15 for imposition of tax and for exclusions from tax; providing
16 for marketplace providers and marketplace sellers; further
17 providing for remote sales reports;
18 in personal income tax, providing for the Pennsylvania
19 ABLE Savings Program Tax Exemption, repealing provisions
20 relating to contribution for Korea/Vietnam Memorial National
21 Education Center and further providing for operational
22 provisions;
23 in corporate net income tax, further providing for
24 definitions and providing for qualified manufacturing
25 innovation and reinvestment deduction;
26 in gross receipts tax, further providing for imposition
27 of tax and establishing the Natural Gas Optimization Fund and
28 Natural Gas Optimization Program;
29 in realty transfer tax, further providing for definitions
30 and for exempt parties;
31 in entertainment production tax credit, further providing
32 for definitions and for credit for qualified film production
33 expenses, providing for film production tax credit districts
34 and establishing the Entertainment Economic Enhancement
35 Program;
36 in city revitalization and improvement zones, further
37 providing for restrictions and for transfer of property;
38 in neighborhood improvement zones, further providing for

1 definitions and providing for transfer of property;
2 in keystone opportunity zones, keystone opportunity
3 expansion zones and keystone opportunity improvement zones,
4 further providing for additional keystone opportunity zones;
5 in inheritance tax, further providing for timely mailing
6 treated as timely filing and payment;
7 providing for an electric grid virtual financial
8 transactions tax;
9 in Public Transportation Assistance Fund, further
10 providing for fund;
11 providing for fireworks, for unconventional gas wells,
12 for unconventional natural gas air quality protection and for
13 environmental permitting reform;
14 in procedure and administration, further providing for
15 petition for reassessment, for petition procedure and for
16 review by board;
17 providing for Tobacco Master Settlement Payment Fund;
18 in general provisions, further providing for timely
19 filing;
20 providing for severability; and
21 making related repeals.

22 Amend Bill, page 2, lines 20 through 30; page 3, lines 1
23 through 30; page 4, lines 1 through 4; by striking out all of
24 said lines on said pages and inserting

25 Section 1. The title of the act of March 4, 1971 (P.L.6,
26 No.2), known as the Tax Reform Code of 1971, is amended to read:

27 AN ACT

28 Relating to tax reform and State taxation by codifying and
29 enumerating certain subjects of taxation and imposing taxes
30 thereon; providing procedures for the payment, collection,
31 administration and enforcement thereof; providing for tax
32 credits in certain cases; providing for environmental
33 permitting; conferring powers and imposing duties upon the
34 Department of Revenue, certain employers, fiduciaries,
35 individuals, persons, corporations and other entities;
36 prescribing crimes, offenses and penalties.

37 Section 1.1. Section 201(m) of the act, amended July 13,
38 2016 (P.L.526, No.84), is amended and the section is amended by
39 adding clauses to read:

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

44 * * *

45 (m) "Tangible personal property."

46 (1) Corporeal personal property including, but not limited
47 to, goods, wares, merchandise, steam and natural and
48 manufactured and bottled gas for non-residential use,

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

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

- 24 (i) video;
- 25 (ii) photographs;
- 26 (iii) books;
- 27 (iv) any other otherwise taxable printed matter;
- 28 (v) applications, commonly known as apps;
- 29 (vi) games;
- 30 (vii) music;
- 31 (viii) any other audio, including satellite radio service;
- 32 (ix) canned software, notwithstanding the function
33 performed, including support, except separately invoiced help
34 desk or call center support; or
- 35 (x) any other otherwise taxable tangible personal property
36 electronically or digitally delivered, streamed or accessed.

37 * * *

38 (eee) "Marketplace provider." A person who, either directly
39 or indirectly through agreements or arrangements with third
40 parties and pursuant to an agreement with a marketplace seller,
41 facilitates a sale by a marketplace seller. For purposes of this
42 definition, a person "facilitates a sale" if the person or an
43 affiliated person:

44 (1) collects the payment made by a customer to or for a
45 marketplace seller regardless of whether the marketplace
46 provider receives compensation or other consideration in
47 exchange for its services; and

48 (2) provides the forum in which, or by means of which, the
49 sale takes place, including a shop, a store, a booth, an
50 Internet website, a catalog or a similar forum.

51 (fff) "Marketplace seller." A person, whether or not the

1 person is required to register to collect tax under this
2 article, who:

3 (1) has an agreement with a marketplace provider under which
4 the marketplace provider will facilitate sales for the person;
5 and

6 (2) makes sales at retail subject to tax under this article.

7 Section 2. Section 202(a) of the act is amended to read:

8 Section 202. Imposition of Tax.--(a) There is hereby
9 imposed upon each separate sale at retail of tangible personal
10 property or services, as defined herein, within this
11 Commonwealth a tax of six per cent of the purchase price, which
12 tax shall be collected by the vendor from the purchaser, or by
13 the marketplace provider for each separate sale at retail
14 facilitated for a marketplace seller, and shall be paid over to
15 the Commonwealth as herein provided.

16 * * *

17 Section 2.1. Section 204(13) of the act, amended July 13,
18 2016 (P.L.526, No.84), is amended to read:

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

21 * * *

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

34 * * *

35 Section 2.2. Article II of the act is amended by adding a
36 part to read:

37 PART V-A

38 MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS

39 Section 213. Marketplace Providers and Marketplace
40 Sellers.--(a) A marketplace provider shall:

41 (1) comply with all of the provisions of this article with
42 respect to the collection of tax by vendors;

43 (2) have all the duties, benefits and entitlements of a
44 person required to collect tax under this article with respect
45 to sales facilitated for a marketplace seller, as if the
46 marketplace provider were the vendor with respect to the sale,
47 including the right to receive the refund authorized by section
48 247 or section 247.1; and

49 (3) keep the records and information required of a vendor
50 under this article.

51 (b) A marketplace seller is not a person required to collect

1 tax for purposes of this section regarding a particular sale at
2 retail if:

3 (1) the marketplace seller can show that the sale was
4 facilitated by a marketplace provider from whom the seller has
5 received a properly completed certificate of collection on a
6 form prescribed by the department certifying that the
7 marketplace provider is registered to collect tax and will
8 collect tax on all taxable sales by the marketplace seller and
9 with other information as the department may prescribe; and

10 (2) any failure of the marketplace provider to collect the
11 proper amount of tax in regard to the sale was not the result of
12 the marketplace seller providing the marketplace provider with
13 incorrect information.

14 (c) This section shall be administered in a manner
15 consistent with this article as if a certificate of collection
16 were a resale or exemption certificate, including with regard to
17 the completeness of the certificate of collection and the timing
18 of its acceptance by the marketplace seller, provided that, with
19 regard to any sales by a marketplace seller that are facilitated
20 by a marketplace provider who is affiliated with the marketplace
21 seller, the marketplace seller shall be deemed liable as a
22 person under a duty to act for the marketplace provider for
23 purposes of this article.

24 (d) A marketplace provider is relieved of liability under
25 this section for failure to collect the correct amount of tax to
26 the extent that the marketplace provider can show that the error
27 was due to incorrect information given to the marketplace
28 provider by the marketplace seller. This subsection shall not
29 apply if the marketplace seller and marketplace provider are
30 affiliated.

31 (e) For purposes of this section, two persons are affiliated
32 if one person has an ownership interest of more than five per
33 cent, whether direct or indirect, in the other, or where an
34 ownership interest of more than five per cent, whether direct or
35 indirect, is held in each of the persons by another person or by
36 a group of other persons which are affiliated persons with
37 respect to each other.

38 Section 2.3. Section 278 of the act is amended by adding a
39 subsection to read:

40 Section 278. Remote Sales Reports.--* * *

41 (c) If Federal legislation relating to remote sellers has
42 not been enacted by December 31, 2018, the Independent Fiscal
43 Office, in conjunction with the Department of Revenue, shall
44 conduct a study assessing the legal implications and fiscal
45 impact of mandating notice requirements for remote sellers. By
46 April 1, 2019, results of the study, if a study is produced,
47 shall be provided to the chairman and minority chairman of the
48 Appropriations Committee of the Senate, the chairman and
49 minority chairman of the Finance Committee of the Senate, the
50 chairman and minority chairman of the Appropriations Committee
51 of the House of Representatives and the chairman and minority

1 chairman of the Finance Committee of the House of
2 Representatives.

3 Section 3. The act is amended by adding a section to read:

4 Section 304.2. Pennsylvania ABLE Savings Program Tax
5 Exemption.--(a) The following shall be exempt from all taxation
6 by the Commonwealth and its political subdivisions:

7 (1) Undistributed earnings on an account.

8 (2) An amount distributed from an account that is not
9 included in gross income under section 529A(c)(1) of the
10 Internal Revenue Code.

11 (b) The following shall apply:

12 (1) An amount contributed to an account shall be deductible
13 from the taxable income of the contributor under this article
14 for the tax year the contribution was made.

15 (2) The total contributions made by a contributor during a
16 taxable year to all accounts that are allowable as a deduction
17 under this section shall not exceed the dollar amount under
18 section 2503(b) of the Internal Revenue Code.

19 (3) The deduction shall not result in the contributor's
20 taxable income being less than zero.

21 (4) The department and the Treasury Department shall
22 cooperate in verifying account information relating to
23 contributions to an account itemized by a contributor and the
24 contributor's specific contributions.

25 (c) An amount that is distributed from an account and not
26 otherwise exempt from taxation under this section shall be
27 taxable income to the designated beneficiary under this article.

28 (d) A change in designated beneficiaries under section
29 529A(c) of the Internal Revenue Code shall not constitute a
30 taxable event.

31 (e) As used in this section, the following words and phrases
32 shall have the meanings given to them in this subsection unless
33 the context clearly indicates otherwise:

34 "Account." An ABLE savings account as defined in section 102
35 of the Pennsylvania ABLE Act.

36 "Contributor." An individual who makes a contribution to an
37 account as defined in section 102 of the Pennsylvania ABLE Act.

38 "Designated beneficiary." The term shall have the same
39 meaning as provided in section 102 of the Pennsylvania ABLE Act.

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

42 "Pennsylvania ABLE Act." The act of April 18, 2016 (P.L.128,
43 No.17), known as the Pennsylvania ABLE Act.

44 "Pennsylvania ABLE Savings Program." The program established
45 under the Pennsylvania ABLE Act.

46 "Qualified disability expense." The term shall have the same
47 meaning as provided in section 102 of the Pennsylvania ABLE Act.

48 "Rollover distribution." The term shall have the same
49 meaning as provided in section 102 of the Pennsylvania ABLE Act

50 * * *

51 Section 4. Section 315.6 of the act is repealed:

1 [Section 315.6. Contribution for Korea/Vietnam Memorial
2 National Education Center.--(a) For tax years 1997, 1998, 1999,
3 2000, 2001, 2002, 2003 and 2004, the department shall provide a
4 space on the face of the Pennsylvania individual income tax
5 return form whereby an individual may voluntarily designate a
6 contribution of any amount from the individual's tax refund to
7 the Korea/Vietnam Memorial National Education Center.

8 (b) The amount designated by an individual on the
9 Pennsylvania individual income tax return form shall be deducted
10 from the tax refund to which the individual is entitled and
11 shall not constitute a charge against the income tax revenues
12 due the Commonwealth.

13 (c) The department shall determine annually the total amount
14 designated by individual taxpayers under this section and shall
15 report the amount to the State Treasurer, who shall prepare the
16 appropriate documentation and transfer the designated amount
17 from the General Fund to the Korea/Vietnam Memorial National
18 Education Center.

19 (d) The department shall provide adequate information
20 regarding the center and its purposes in its instructions for
21 tax years 1997, 1998, 1999, 2000, 2001, 2002, 2003 and 2004
22 which accompany Pennsylvania individual income tax return forms
23 to include the address of the Korea/Vietnam Memorial National
24 Education Center to which contributions may be sent by taxpayers
25 who wish to make additional contributions to the center.

26 (e) On or before March 31 of each year, the Korea/Vietnam
27 Memorial National Education Center shall submit a report
28 detailing contributions received and activities undertaken
29 during the prior calendar year to the Military and Veterans'
30 Affairs Committee of the Senate and the Veterans Affairs and
31 Emergency Preparedness Committee of the House of
32 Representatives.

33 (f) This section shall expire December 31, 2005.]

34 Section 4.1. Section 315.9(b.1) and (c) of the act are
35 amended to read:

36 Section 315.9. Operational Provisions.--

37 * * *

38 (b.1) Notwithstanding subsection (b), the checkoffs
39 established in sections 315.2 [and], 315.3, 315.4, 315.7, 315.8,
40 315.10 and 315.11 shall not expire.

41 [(c) Sections 315.3, 315.4 and 315.8 shall expire January 1,
42 2018.]

43 Section 4.2. Section 401(3)4(c) of the act is amended and
44 the subsection is amended by adding a clause to read:

45 Section 401. Definitions.--The following words, terms, and
46 phrases, when used in this article, shall have the meaning
47 ascribed to them in this section, except where the context
48 clearly indicates a different meaning:

49 * * *

50 (3) "Taxable income." * * *

51 4. * * *

(c) (1) The net loss deduction shall be the lesser of:

(A) (I) For taxable years beginning before January 1, 2007, two million dollars (\$2,000,000);

(II) For taxable years beginning after December 31, 2006, the greater of twelve and one-half per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000);

(III) For taxable years beginning after December 31, 2008, the greater of fifteen per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000);

(IV) For taxable years beginning after December 31, 2009, the greater of twenty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000);

(V) For taxable years beginning after December 31, 2013, the greater of twenty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or four million dollars (\$4,000,000);

(VI) For taxable years beginning after December 31, 2014, the greater of thirty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or five million dollars (\$5,000,000); [or]

(VII) For taxable years beginning after December 31, 2017, thirty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2;

(VIII) For taxable years beginning after December 31, 2018, forty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2;

(B) The amount of the net loss or losses which may be carried over to the taxable year or taxable income as determined under subclause 1 or, if applicable, subclause 2.

(1.1) In no event shall the net loss deduction include more than five hundred thousand dollars (\$500,000), in the aggregate, of net losses from taxable years 1988 through 1994.

(2) (A) A net loss for a taxable year may only be carried over pursuant to the following schedule:

Taxable Year	Carryover
1981	1 taxable year
1982	2 taxable years
1983-1987	3 taxable years
1988	2 taxable years plus 1 taxable year starting with the 1995 taxable year
1989	1 taxable year plus 2 taxable years starting with the 1995 taxable year
1990-1993	3 taxable years starting with the

1		1995 taxable year
2	1994	1 taxable year
3	1995-1997	10 taxable years
4	1998 and thereafter	20 taxable years

5 (B) The earliest net loss shall be carried over to the
6 earliest taxable year to which it may be carried under this
7 schedule. The total net loss deduction allowed in any taxable
8 year shall not exceed:

9 (I) Two million dollars (\$2,000,000) for taxable years
10 beginning before January 1, 2007.

11 (II) The greater of twelve and one-half per cent of the
12 taxable income as determined under subclause 1 or, if
13 applicable, subclause 2 or three million dollars (\$3,000,000)
14 for taxable years beginning after December 31, 2006.

15 (III) The greater of fifteen per cent of the taxable income
16 as determined under subclause 1 or, if applicable, subclause 2
17 or three million dollars (\$3,000,000) for taxable years
18 beginning after December 31, 2008.

19 (IV) The greater of twenty per cent of the taxable income as
20 determined under subclause 1 or, if applicable, subclause 2 or
21 three million dollars (\$3,000,000) for taxable years beginning
22 after December 31, 2009.

23 (V) The greater of twenty-five per cent of taxable income as
24 determined under subclause 1 or, if applicable, subclause 2 or
25 four million dollars (\$4,000,000) for taxable years beginning
26 after December 31, 2013.

27 (VI) The greater of thirty per cent of taxable income as
28 determined under subclause 1 or, if applicable, subclause 2 or
29 five million dollars (\$5,000,000) for taxable years beginning
30 after December 31, 2014.

31 (VII) Thirty-five per cent of taxable income as determined
32 under subclause 1 or, if applicable, subclause 2 for taxable
33 years beginning after December 31, 2017.

34 (VIII) Forty per cent of taxable income as determined under
35 subclause 1 or, if applicable, subclause 2 for taxable years
36 beginning after December 31, 2018.

37 (c.1) A deduction under part IV.1 shall be allowed from
38 taxable income as proscribed in a satisfaction commitment letter
39 executed between the Department of Community and Economic
40 Development and a taxpayer under section 407.7(c).

41 * * *

42 Section 4.3. Article IV of the act is amended by adding a
43 part to read:

44 PART IV-A
45 QUALIFIED MANUFACTURING INNOVATION
46 AND REINVESTMENT DEDUCTION

47 Section 407.6. Definitions.--(a) For the purposes of this
48 part only, the following words, terms and phrases shall have the
49 meaning ascribed to them in this subsection, except where the
50 context clearly indicates a different meaning:

51 (1) "Annual taxable payroll." The total amount of wages

1 paid in this Commonwealth by a taxpayer for the base year or
2 year one, as applicable, from which personal income tax under
3 Article III is withheld.

4 (2) "Base year." The four calendar quarters preceding the
5 start date.

6 (3) "Department." The Department of Community and Economic
7 Development of the Commonwealth.

8 (4) "Manufacture." The mechanical, physical, biological or
9 chemical transformation of materials, substances or components
10 into new products that are creations of new items of tangible
11 personal property for sale.

12 (5) "Qualified manufacturing innovation and reinvestment
13 deduction." An allowable deduction as determined, calculated
14 and executed in a commitment letter between the department and
15 the taxpayer.

16 (6) "Qualified tax liability." A taxpayer's tax liability
17 under this article.

18 (7) "Start date." The first day of the calendar quarter in
19 which a taxpayer advises the department of the taxpayer's intent
20 to initiate an eligible project unless the applicant requests
21 and the department agrees to a later start date.

22 (8) "Taxpayer." An employer subject to the tax under this
23 article.

24 (9) "Year one." The four calendar quarters immediately
25 following the start date.

26 Section 407.7. Manufacturing Innovation and Reinvestment
27 Deduction.--(a) In order to be eligible to receive a
28 manufacturing innovation and reinvestment deduction, a taxpayer
29 must demonstrate to the department a capital investment in
30 excess of one hundred million dollars (\$100,000,000) for the
31 creation of new or refurbished manufacturing capacity within
32 three years of a designated start date.

33 (b) (1) A taxpayer must advise the department in advance of
34 the start date of any project for which the taxpayer may seek a
35 qualified manufacturing innovation and reinvestment deduction. A
36 taxpayer must attest the taxpayer's intent to meet the
37 eligibility criteria and provide relevant information pertinent
38 to the project's size and scope in a manner as determined by the
39 department.

40 (2) Within five years of a project's start date, a taxpayer
41 must complete to the department's satisfaction an application on
42 a form and in a manner as determined by the department to attest
43 that the project has been completed and the eligibility criteria
44 has been satisfied.

45 (c) Upon the receipt of the taxpayer's application, the
46 Department of Revenue must make a finding that the applicant has
47 filed all required State tax reports and returns for all
48 applicable tax years and paid any balance of State tax due as
49 determined at settlement, assessment or determination and the
50 department, then in conjunction with the Department of Revenue,
51 shall make an eligibility or satisfaction determination within

ninety days of submission. If the department makes a satisfaction determination, the department and the taxpayer shall execute a satisfaction commitment letter containing the following:

(1) The number of new jobs created and their corresponding description.

(2) The number of new jobs created during construction of the project.

(3) The amount of private capital investment in the creation of new jobs.

(4) The increase in the annual taxable payroll attributable to new manufacturing jobs.

(5) A determination of the maximum allowable deduction against a taxpayer's qualified tax liability under this article.

(6) Any other information as the department deems appropriate.

(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.

(3) A taxpayer cannot use the deduction to reduce its tax liability by more than fifty per cent of the tax liability under this article for the taxable year. The deduction is nontransferable and any unused portion in a tax year shall expire at the end of the corresponding tax year.

Section 4.4. Section 1101(a) introductory paragraph, (b) heading and introductory paragraph, (c), (c.1), (e) and (f) of the act, amended July 13, 2016 (P.L.526, No.84), are amended and the section is amended by adding subsections to read:

Section 1101. Imposition of Tax.--(a) General Rule.--Every pipeline company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, and every other company, association, joint-stock association, or limited partnership, now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government, and doing business in this Commonwealth, and every copartnership, person or persons owing, operating or leasing to or from another corporation, company, association, joint-stock association, limited partnership, copartnership, person or persons, any pipeline, conduit, steamboat, canal, slack water navigation, or other device for the transportation of freight, passengers, baggage, or oil, except motor vehicles and railroads, and every limited

1 partnership, association, joint-stock association, corporation
2 or company engaged in, or hereinafter engaged in, the
3 transportation of freight or oil within this State, and every
4 telephone company, telegraph company or provider of mobile
5 telecommunications services now or hereafter incorporated or
6 organized by or under any law of this Commonwealth, or now or
7 hereafter organized or incorporated by any other state or by the
8 United States or any foreign government and doing business in
9 this Commonwealth, and every limited partnership, association,
10 joint-stock association, copartnership, person or persons,
11 engaged in telephone or telegraph business or providing mobile
12 telecommunications services in this Commonwealth, shall pay to
13 the State Treasurer, through the Department of Revenue, a tax
14 [of forty-five mills with a surtax equal to five mills] at the
15 rate set forth in subsection (j.1) upon each dollar of the gross
16 receipts of the corporation, company or association, limited
17 partnership, joint-stock association, copartnership, person or
18 persons received from:

19 * * *

20 (b) Electric Light, Waterpower and Hydro-electric
21 [Utilities] Companies.--Every electric light company, waterpower
22 company and hydro-electric company now or hereafter incorporated
23 or organized by or under any law of this Commonwealth, or now or
24 hereafter organized or incorporated by any other state or by the
25 United States or any foreign government and doing business in
26 this Commonwealth, and every limited partnership, association,
27 joint-stock association, copartnership, person or persons,
28 engaged in electric light and power business, waterpower
29 business and hydro-electric business in this Commonwealth, shall
30 pay to the State Treasurer, through the Department of Revenue, a
31 tax [of forty-four mills] at the rate set forth in subsection
32 (j.1) upon each dollar of the gross receipts of the corporation,
33 company or association, limited partnership, joint-stock
34 association, copartnership, person or persons, received from:

35 * * *

36 (b.2) Natural Gas Supply and Natural Gas Distribution
37 Companies.--

38 (1) Every natural gas supply company and natural gas
39 distribution company, incorporated or organized under the laws
40 of the United States, this Commonwealth, a state or a foreign
41 government, on or after the effective date of this subsection
42 and doing business in this Commonwealth, and every limited
43 partnership, association, joint-stock association,
44 copartnership, or person, engaged in natural gas supply or
45 natural gas distribution business in this Commonwealth, shall
46 pay to the State Treasurer, through the Department of Revenue, a
47 tax at the rate set forth in subsection (j.1) upon each dollar
48 of the gross receipts of the corporation, company or
49 association, limited partnership, joint-stock association,
50 copartnership or person, received from the sales and delivery of
51 natural gas to retail gas customers within this Commonwealth,

1 except gross receipts derived from:
2 (i) sales of liquefied petroleum gas;
3 (ii) (Reserved);
4 (iii) (Reserved);
5 (iv) sales to an electric generation company that are
6 consumed for the purpose of generating electricity; and
7 (v) gross receipts derived from the sales for resale to
8 persons, partnerships, associations or corporations subject to
9 the tax imposed by this act upon gross receipts derived from the
10 resale.

11 (2) For purposes of this subsection, sales of natural gas to
12 retail gas customers shall include all receipts from natural gas
13 supply services and natural gas distribution services.

14 (3) For the purposes of this subsection, the terms "natural
15 gas distribution services," "natural gas supply services" and
16 "retail gas customers" shall have the same meanings as the terms
17 have in 66 Pa.C.S. § 2202 (relating to definitions).

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

36 (c.1) Safe Harbor Base year.--For purposes of the estimated
37 tax requirements under sections 3003.2 and 3003.3, the "safe
38 harbor base year" tax amount for providers of mobile
39 telecommunications services and for a natural gas supply company
40 and a natural gas distribution company subject to the provisions
41 of subsection (b.2) shall be the amount that would have been
42 required to be paid by the taxpayer if the taxpayer had been
43 subject to this article.

44 (e) Time to File Reports.--The time for filing annual
45 reports may be extended, estimated assessments may be made by
46 the Department of Revenue if reports are not filed, and the
47 penalties for failing to file reports and pay the taxes imposed
48 under subsection (a) [and (b)], (b) and (b.2) shall be as
49 prescribed by the laws defining the powers and duties of the
50 Department of Revenue. In any case where the works of any
51 corporation, company, copartnership, association, joint-stock

1 association, limited partnership, person or persons are operated
2 by another corporation, company, copartnership, association,
3 joint-stock association, limited partnership, person or persons,
4 the taxes imposed under subsections (a) [and (b)], (b) and (b.2)
5 shall be apportioned between the corporations, companies,
6 copartnerships, associations, joint-stock associations, limited
7 partnerships, person or persons in accordance with the terms of
8 their respective leases or agreements, but for the payment of
9 the said taxes the Commonwealth shall first look to the
10 corporation, company, copartnership, association, joint-stock
11 association, limited partnership, person or persons operating
12 the works, and upon payment by the said company, corporation,
13 copartnership, association, joint-stock association, limited
14 partnership, person or persons of a tax upon the receipts, as
15 herein provided, derived from the operation thereof, no other
16 corporation, company, copartnership, association, joint-stock
17 association, limited partnership, person or persons shall be
18 held liable for any tax imposed under subsections (a) [and (b)],
19 (b) and (b.2) upon the proportion of said receipts received by
20 said corporation, company, copartnership, association, joint-
21 stock association, limited partnership, person or persons for
22 the use of said works.

23 (f) Application to Municipalities.--This article shall be
24 construed to apply to municipalities, and to impose a tax upon
25 the gross receipts derived from any municipality owned or
26 operated public utility or from any public utility service,
27 natural gas distribution service or natural gas supply service
28 furnished by any municipality, except that, except as provided
29 under subsection (f.1), gross receipts shall be exempt from the
30 tax, to the extent that such gross receipts are derived from
31 business done inside the limits of the municipality, owning or
32 operating the public utility or furnishing the public utility
33 service.

34 (f.1) Certain Gross Receipts Taxed.--The exemption from tax
35 under subsection (f) shall not apply to gross receipts received
36 from the sales and delivery of natural gas to retail gas
37 customers under subsection (b.2).

38 * * *

39 (j.1) The tax imposed under this section shall be imposed at
40 the following rates:

41 (1) Sixty mills for receipts subject to tax under subsection
42 (a).

43 (2) Fifty mills for receipts subject to tax under subsection
44 (b).

45 (3) Fifty-seven mills for receipts subject to tax under
46 subsection (b.2).

47 (j.2) Schedule for Certain Payments.--

48 (1) For calendar year 2017, the tax applicable to the
49 payment of the tax under subsection (b.2) shall be due on March
50 15, 2018.

51 (2) For calendar year 2018, the following schedule applies

1 to the payment of the tax under subsection (b.2):
2 (i) Fifty per cent of the estimated tax shall be due on
3 March 15, 2018.
4 (ii) Fifty per cent of the estimated tax shall be due on
5 June 15, 2018.
6 (3) For calendar years after 2018, the payment of the
7 estimated tax under subsection (b.2) shall be due in accordance
8 with section 3003.2.

9 * * *

10 Section 5. Article XI of the act is amended by adding parts
11 to read:

12 PART V

13 NATURAL GAS OPTIMIZATION FUND

14 Section 1111. Natural Gas Optimization Fund.

15 The Natural Gas Optimization Fund is established in the State
16 Treasury.

17 Section 1112. Transfer of funds.

18 (a) Natural Gas Optimization Fund.--Money from the tax
19 imposed under section 1101(b.2) shall be deposited into the
20 General Fund. Twenty million dollars of the money deposited into
21 the General Fund under this section shall be transferred
22 annually to the Natural Gas Optimization Fund established in
23 section 1111.

24 (b) Low-Income Home Energy Assistance Program.--Twenty
25 million dollars of the money deposited into the General Fund in
26 accordance with this section shall be transferred annually to
27 the Department of Human Services of the Commonwealth to augment
28 activities related to the Low-Income Home Energy Assistance
29 Program as authorized under sections 201 and 206 of Article II
30 of the act of June 13, 1967 (P.L.31, No.21), known as the Human
31 Services Code.

32 PART VI

33 NATURAL GAS OPTIMIZATION PROGRAM

34 Section 1113. Definitions.

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

38 "Commission." The Pennsylvania Public Utility Commission.

39 "Eligible applicant." A natural gas distribution company
40 subject to the tax imposed under section 1101(b.2).

41 "Fund." The Natural Gas Optimization Fund established under
42 section 1111.

43 "Program." The Natural Gas Optimization Program established
44 under section 1114.

45 Section 1114. Natural Gas Optimization Program.

46 (a) Establishment and purpose.--The Natural Gas Optimization
47 Program is established and the program's purpose shall be to
48 fund projects as permitted under this part.

49 (b) Funding.--Grants made under this section shall be made
50 from the fund.

51 (c) Grants.--

1 (1) Except as provided in paragraph (2), for fiscal
2 years beginning 2017-2018, and each fiscal year thereafter,
3 the total amount of grants approved under this section may
4 not exceed \$20,000,000.

5 (2) If the total amount of grants approved in a fiscal
6 year is less than \$20,000,000, the unused portion may be
7 carried over and approved in future fiscal years.

8 (d) Powers of commission.--The commission shall have the
9 authority to administer the program.

10 (e) Guidelines.--Funds under this part shall be used in
11 accordance with guidelines adopted by the commission.

12 (f) Eligible projects.--Money deposited into the fund under
13 section 1112(a) may be utilized by the commission for
14 competitive grants to eligible applicants for eligible projects
15 as provided in this part. In order to be eligible to receive a
16 grant, an eligible applicant must provide or demonstrate to the
17 commission one or more of the following:

18 (1) A plan to expand access to natural gas
19 infrastructure.

20 (2) A plan to expand access to natural gas in
21 residential areas.

22 (3) A plan to accelerate the rate of infrastructure
23 placement and replacement necessary to advance the purposes
24 of this part.

25 (4) A plan to promote the use of natural gas in
26 residential areas.

27 (5) A plan to provide rebates or buy down expenditures
28 in order to reduce upfront costs associated with connecting
29 to a natural gas line, in-house piping and natural gas
30 equipment owned by new or existing customers, including high
31 efficiency natural gas furnaces.

32 (g) Application.--An eligible applicant shall submit an
33 application, including supporting information as required by the
34 commission.

35 (h) Project review.--The commission shall review and prepare
36 an assessment of each application and determine which projects
37 will best utilize and promote the use of domestically produced
38 natural gas in this Commonwealth. The commission's review and
39 assessment shall consider the following:

40 (1) The economic impact of the project included in the
41 application.

42 (2) The number of new end users that will gain access to
43 natural gas as a result of the project.

44 (3) The extent to which the project extends access to
45 natural gas to serve an unserved or underserved area.

46 (4) The extent to which the project will make the use of
47 natural gas more efficient and affordable to customers.

48 (5) The projected cost of the project.

49 (6) The source and amount of any funds to be contributed
50 by the eligible applicant.

51 (7) Any other relevant factors as determined by the

1 commission.

2 (i) Notice of application deadlines.--The commission shall
3 establish and publish application deadlines in the Pennsylvania
4 Bulletin and on its publicly accessible Internet website.

5 (j) Approval schedule.--The commission shall develop a
6 schedule for the approval of applications under this section.

7 (k) Reapplication.--If an application is not approved under
8 this section, the eligible applicant may revise and resubmit the
9 application and plan for approval.

10 (l) Administrative costs.--No more than two percent of the
11 money deposited into the fund annually may be used by the
12 commission for administrative costs.

13 (m) Program report.--The commission shall provide a report
14 to the chairperson and minority chairperson of the Consumer
15 Protection and Professional Licensure Committee of the Senate
16 and the chairperson and minority chairperson of the Consumer
17 Affairs Committee of the House of Representatives by October 1,
18 2018, and each October 1 thereafter. The report shall be
19 maintained on the commission's publicly accessible Internet
20 website and shall include:

21 (1) A list of all grants approved during the previous
22 fiscal year, including the amount of the grant and a
23 description of each approved project.

24 (2) The estimated natural gas optimization benefits to
25 date for all projects receiving funding during the fiscal
26 year and the methods used to determine estimated benefits.

27 Section 6. The definition of "veterans' organization" in
28 section 1101-C of the act, added July 13, 2016 (P.L.526, No.84),
29 is amended to read:

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

33 * * *

34 "Veterans' service organization." A not-for-profit
35 organization that [is recognized by the Internal Revenue Service
36 as a tax exempt organization described under section 501(c)(19)
37 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
38 U.S.C. § 501(c)(19)). For the purposes of this article, the term
39 shall only include a not-for-profit organization for the period
40 in which the organization has a valid tax exemption under
41 section 501(c)(19) of the Internal Revenue Code of 1986, as
42 determined by the Internal Revenue Service.] has been chartered
43 by the Congress of the United States to service veterans or is a
44 member of the Pennsylvania State Veterans' Commission under 51
45 Pa.C.S. Ch. 17 (relating to State Veterans' Commission and
46 Deputy Adjutant General for Veterans' Affairs).

47 * * *

48 Section 7. Section 1102-C.2 of the act, amended July 13,
49 2016 (P.L.526, No.84), is amended to read:

50 Section 1102-C.2. Exempt Parties.--The United States, the
51 Commonwealth or any of their instrumentalities, agencies or

1 political subdivisions, or veterans' service organizations shall
2 be exempt from payment of the tax imposed by this article. The
3 exemption under this section shall not, however, relieve any
4 other party to a transaction from liability for the tax.

5 Section 7.1. Section 1711-D of the act is amended by adding
6 definitions to read:

7 Section 1711-D. Definitions.

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

11 "Deteriorated property." Any blighted, impoverished area
12 containing industrial, commercial or other real property that is
13 abandoned, unsafe, vacant, undervalued, underutilized,
14 overgrown, defective, condemned, demolished or which contains
15 economically undesirable land use.

16 * * *

17 "Film production tax credit district." A district authorized
18 under section 1716.2-D.

19 * * *

20 Section 7.2. Section 1712-D of the act is amended by adding
21 a subsection to read:

22 Section 1712-D. Credit for qualified film production expenses.

23 * * *

24 (b.1) Review and approval of applications for film
25 production tax credit district activity.--For applications
26 involving film production expenses incurred within a designated
27 film production tax credit district authorized under section
28 1716.2-D, the department shall accept applications at any time.
29 Applications shall be reviewed by the department utilizing the
30 criteria required under subsection (b). Upon determining the
31 taxpayer has incurred or will incur qualified film production
32 expenses, the department shall approve the taxpayer for a tax
33 credit utilizing the tax credits authorized under 1716.2-D, not
34 to exceed the amount authorized for the fiscal year.

35 * * *

36 Section 7.3. The act is amended by adding a section to read:
37 Section 1716.2-D. Film production tax credit districts.

38 (a) Establishment.--The department may designate not more
39 than two film production tax credit districts for the purpose of
40 enhancing, promoting and expanding film production opportunities
41 and establishing a film production industry within this
42 Commonwealth.

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

44 (1) Be at least 55 acres in size.

45 (2) Be located on deteriorated property.

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

48 (i) in the aggregate, make a capital investment of
49 at least \$400,000,000 within the district within five
50 years after the effective date of the designation of the
51 district; and

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

5 (4) Contain at least one qualified production facility
6 and six soundstages.

7 (c) Application.--The following apply:

8 (1) An application to designate a film production tax
9 credit district may be made by the county or municipality in
10 which all or part of the district will be located. The
11 department shall review the application and, if approved,
12 issue a designation for the film production tax credit
13 district. The application period shall be set by the
14 department.

15 (2) The application shall contain the following
16 information:

17 (i) The geographic area of the proposed film
18 production tax credit district.

19 (ii) A detailed map of the proposed district,
20 including geographic boundaries, total area and present
21 use and conditions of the land and structures.

22 (iii) A description of the current social, economic
23 and demographic characteristics of the proposed district
24 and anticipated improvements in education, health, human
25 services, public safety and employment that will result
26 from designation of the district.

27 (iv) A description of anticipated film production
28 activity and ancillary activities in the proposed
29 district.

30 (v) Evidence of potential private and public
31 investment in the proposed district.

32 (vi) The role of the proposed district in regional
33 economic and community development.

34 (d) Designation period.--A district designated under
35 subsection (c) shall expire 15 years after the effective date of
36 the designation.

37 (e) Construction.--The tax credits authorized under this
38 section are in addition to the tax credits under section 1716-
39 D(a) and are available exclusively for activities occurring
40 within the designated district.

41 (f) Annual tax credits.--The department may authorize a tax
42 credit for a film production tax credit district in fiscal year
43 2019-2020 and in each fiscal year thereafter.

44 Section 8. Article XVII-D of the act is amended by adding a
45 subarticle to read:

46 SUBARTICLE E

47 ENTERTAINMENT ECONOMIC ENHANCEMENT PROGRAM

48 Section 1771-D. Scope of subarticle.

49 This subarticle relates to the Entertainment Economic
50 Enhancement Program.

51 Section 1772-D. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 "Maintained a place of business" or "maintaining a place of
39 business." All of the following:

40 (1) Having, maintaining or using within this
41 Commonwealth an office, warehouse or other place of business.

42 (2) Regularly engaging in an activity as a business
43 within this Commonwealth in connection with the lease, sale
44 or delivery of tangible personal property or the performance
45 of a service for residents of this Commonwealth.

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

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

1 (2) A rehearsal at a qualified rehearsal facility for a
2 minimum of 10 days.

3 (3) At least one concert performed at a class 1 venue.

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

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

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

9 (2) A Pennsylvania S corporation as defined in section
10 301(n.1).

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

12 "Pennsylvania rehearsal and tour expenses." The sum of
13 Pennsylvania rehearsal expenses and tour expenses. The term
14 includes Pennsylvania rehearsal expenses and tour expenses paid
15 prior to or during a rehearsal or tour.

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

19 (1) A payment which is made or will be made by a
20 recipient to a person upon which withholding will be made on
21 the payment by the recipient as required under Part VII of
22 Article III or a payment which is made or will be made to a
23 person who is required to make estimated payments under Part
24 VIII of Article III.

25 (2) A payment which is made or will be made to a
26 personal service corporation representing individual talent
27 if the tax imposed by Article IV will be paid or accrued on
28 the net income of the corporation for the taxable year.

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

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

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

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

45 (2) Has a permanent grid system with a capacity of
46 1,000,000 pounds.

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

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

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

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

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

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

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

14 "Recipient." A taxpayer that has been awarded a tax credit
15 under section 1773-D(e).

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

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

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

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

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

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

29 (5) The cost of leasing vehicles.

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

34 (7) The cost of insurance coverage.

35 (8) The cost of food and lodging.

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

38 (10) The cost of renting a rehearsal facility.

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

41 "Rehearsal facility." As follows:

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

44 (i) Located within this Commonwealth.

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

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

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

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

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

9 "Tour." A series of concerts performed or to be performed by
10 a musical performer in more than one location. The term includes
11 at least one rehearsal.

12 "Tour expense." As follows:

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

16 (i) A payment which is made or will be made by a
17 recipient to a person upon which withholding will be made
18 on the payment by the recipient as required under Part
19 VII of Article III or a payment which is made or will be
20 made to a person who is required to make estimated
21 payments under Part VIII of Article III.

22 (ii) The cost of transportation of people or concert
23 touring equipment which is incurred or will be incurred
24 while transporting to or from a train station, bus depot,
25 airport or other transportation facility or while
26 transporting directly from a residence or business entity
27 located in this Commonwealth, or which is incurred or
28 will be incurred for transportation provided by a company
29 which is subject to the tax imposed under Article III or
30 IV.

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

33 (iv) The cost of insurance coverage which is
34 purchased or will be purchased through an insurance agent
35 based in this Commonwealth.

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

39 (vi) The cost of food and lodging which is incurred
40 or will be incurred from a facility located in this
41 Commonwealth.

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

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

48 (ix) A payment which is made or will be made to a
49 personal service corporation representing individual
50 talent if the tax imposed by Article IV will be paid or
51 accrued on the net income of the corporation for the

1 taxable year.

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

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

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

10 Section 1773-D. Procedure.

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

14 (b) Review and approval.--

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

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

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

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

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

27 (v) The anticipated amount of Pennsylvania rehearsal
28 expenses in comparison to the anticipated aggregate
29 amount of rehearsal expenses.

30 (vi) The anticipated amount of the tour expenses.

31 (vii) The anticipated amount of the concert tour
32 equipment expenses which are or will be purchased or
33 rented from a company located and maintaining a place of
34 business in this Commonwealth and which will be used on
35 the tour.

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

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

42 (2) Except as provided in subsection (c) and upon
43 determining that the taxpayer has paid the applicable
44 application fee not to exceed \$300, has met or will meet the
45 minimum rehearsal and tour requirements and has incurred or
46 will incur qualified rehearsal and tour expenses, the
47 department may approve the taxpayer for a tax credit.
48 Applications not approved may be reviewed and considered in
49 subsequent application periods. The department may approve a
50 taxpayer for a tax credit based on its evaluation of the
51 criteria under this subsection.

1 (c) Restriction.--The department may only consider
2 rehearsals held or to be held, and qualified rehearsal and tour
3 expenses incurred or to be incurred, after January 1, 2017, in
4 determining whether a taxpayer has met or will meet the minimum
5 rehearsal and tour requirements.

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

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

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

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

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

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

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

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

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

30 (9) Any other information the department deems
31 appropriate.

32 (e) Certificate.--Upon execution of the contract required by
33 subsection (d), the department shall award the taxpayer a
34 concert rehearsal and tour tax credit and issue the recipient a
35 tax credit certificate.

36 Section 1774-D. Claim.

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

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

42 (a) General rule.--If a recipient cannot use the entire
43 amount of a tax credit for the taxable year in which the tax
44 credit is first approved, the excess may be carried over to
45 succeeding taxable years and used as a tax credit against the
46 qualified tax liability of the recipient for those taxable
47 years. Each time the tax credit is carried over to a succeeding
48 taxable year, the tax credit shall be reduced by the amount that
49 was used as a credit during the immediately preceding taxable
50 year. The tax credit may be carried over and applied to
51 succeeding taxable years for no more than three taxable years

1 following the first taxable year for which the recipient was
2 entitled to claim the tax credit.

3 (b) Application.--A tax credit approved by the department in
4 a taxable year first shall be applied against the recipient's
5 qualified tax liability for the current taxable year as of the
6 date on which the tax credit was approved before the tax credit
7 can be applied against tax liability under subsection (a).

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

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

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

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

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

25 (4) Notwithstanding any other provision of law, the
26 Department of Revenue shall settle, assess or determine the
27 tax of a taxpayer under this subsection within 60 days of the
28 filing of all required final returns or reports in accordance
29 with section 806.1(a)(5) of the act of April 9, 1929
30 (P.L.343, No.176), known as The Fiscal Code.

31 (e) Purchasers and assignees.--The following apply:

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

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

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

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

47 Section 1776-D. Determination of Pennsylvania rehearsal and
48 tour expenses.

49 When prescribing standards for determining which rehearsal or
50 tour expenses are considered Pennsylvania rehearsal and tour
51 expenses for purposes of computing the tax credit provided by

1 this subarticle, the department shall consider:

2 (1) The location where services are performed.

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

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

6 (4) Other factors the department determines are
7 relevant.

8 Section 1777-D. Limitations.

9 (a) Cap.--Except as provided in this subsection, the
10 department may not award tax credits for qualified rehearsal and
11 tour expenses incurred or to be incurred related to more than
12 five tours in a fiscal year. In a fiscal year, the department
13 may, in the department's discretion, advance the award of tax
14 credits for qualified rehearsal and tour expenses incurred or to
15 be incurred related to a maximum of two additional tours.

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

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

22 (2) reduce the number of tours that the department may
23 award tax credits for qualified rehearsal and tour expenses
24 incurred or to be incurred related to a tour in that next
25 succeeding fiscal year.

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

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

29 (2) Except as provided under paragraph (5), the
30 aggregate amount of tax credits awarded by the department
31 under section 1773-D(e) to a taxpayer for a tour with
32 concerts at two class 1 venues or a class 1 venue and a class
33 2 venue may not exceed 25% of the qualified rehearsal and
34 tour expenses incurred or to be incurred.

35 (3) Except as provided under paragraph (5), the
36 aggregate amount of tax credits awarded by the department
37 under section 1773-D(e) to a taxpayer for a tour with
38 concerts at a class 1 venue and a class 3 venue may not
39 exceed 30% of the qualified rehearsal and tour expenses
40 incurred or to be incurred.

41 (4) Except as provided under paragraph (5), the
42 aggregate amount of tax credits awarded by the department
43 under section 1773-D(e) to a taxpayer for a tour with
44 concerts at a class 1 venue and a class 3 venue which does
45 not serve alcohol may not exceed 35% of the qualified
46 rehearsal and tour expenses incurred or to be incurred.

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

1 class 3 venues.

2 (d) Qualified rehearsal facility.--To be considered a
3 qualified rehearsal facility under this subarticle, the owner of
4 a rehearsal facility shall provide evidence to the department to
5 verify the development or facility specifications and capital
6 improvement costs incurred for the rehearsal facility so that
7 the threshold amounts set in the definition of "qualified
8 rehearsal facility" under section 1772-D are satisfied, and,
9 upon verification, the rehearsal facility shall be registered by
10 the department officially as a qualified rehearsal facility.

11 (e) Waiver.--The department may make a determination that
12 the financial benefit to this Commonwealth resulting from the
13 direct investment in or payments made to Pennsylvania rehearsal
14 and concert facilities outweighs the benefit of maintaining the
15 60% Pennsylvania rehearsal expenses requirement contained in the
16 definition of "qualified rehearsal and tour expense" under
17 section 1772-D. If the determination is made, the department may
18 waive the requirement that 60% of a tour's aggregate rehearsal
19 expenses be comprised of Pennsylvania rehearsal expenses.
20 Section 1778-D. Penalty.

21 A recipient which claims a tax credit and fails to incur the
22 amount of qualified rehearsal and tour expenses agreed to under
23 section 1773-D(d)(4) for a tour in that taxable year shall repay
24 to the Commonwealth an amount equal to 110% of the difference
25 between the amount agreed to under section 1773-D(d)(4) and the
26 amount of qualified rehearsal and tour expenses actually
27 incurred by the recipient. The penalty shall be assessed and
28 collected under Article II.
29 Section 1779-D. Pass-through entity.

30 (a) General rule.--If a pass-through entity has any unused
31 tax credits under section 1775-D, the pass-through entity may
32 elect in writing, according to procedures established by the
33 Department of Revenue, to transfer all or a portion of the tax
34 credits to shareholders, members or partners in proportion to
35 the share of the entity's distributive income to which each
36 shareholder, member or partner is entitled.

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

41 (c) Application.--A shareholder, member or partner of a
42 pass-through entity to whom a tax credit is transferred under
43 subsection (a) shall immediately claim the tax credit in the
44 taxable year in which the transfer is made. The shareholder,
45 member or partner may not carry forward, carry back, obtain a
46 refund of or sell or assign the tax credit.
47 Section 1780-D. Department guidelines and regulations.

48 The department shall develop written guidelines for the
49 implementation of this subarticle. The guidelines shall be in
50 effect until the department promulgates regulations for the
51 implementation of this subarticle.

1 Section 1781-D. Report to General Assembly.

2 No later than June 1, 2018, and September 1 of each year
3 thereafter, the Secretary of Community and Economic Development
4 shall submit a report to the General Assembly summarizing the
5 effectiveness of the tax credits provided by this subarticle.
6 The report shall include the name of the tours which rehearsed
7 in this Commonwealth, the names of all recipients awarded a tax
8 credit as of the date of the report and the amount of tax
9 credits approved for each recipient. The report may also include
10 recommendations for changes in the calculation or administration
11 of the tax credits provided under this subarticle. The report
12 shall be submitted to the chairperson and minority chairperson
13 of the Appropriations Committee of the Senate, the chairperson
14 and minority chairperson of the Finance Committee of the Senate,
15 the chairperson and minority chairperson of the Appropriations
16 Committee of the House of Representatives and the chairperson
17 and minority chairperson of the Finance Committee of the House
18 of Representatives. The report shall include the following
19 information, which shall be separated by geographic location
20 within this Commonwealth:

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

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

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

29 Section 9. Sections 1813-C and 1814-C of the act, amended
30 July 13, 2016 (P.L.526, No.84), are amended to read:
31 Section 1813-C. Restrictions.

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

34 (1) Payment of debt service on bonds issued or
35 refinanced for the acquisition, development, construction,
36 including related infrastructure and site preparation,
37 reconstruction, renovation or refinancing of a facility in
38 the zone and normal and customary fees for professional
39 services associated with the issuance or refinance of the
40 bonds.

41 (2) Acquisition, development, construction, including
42 related infrastructure and site preparation, reconstruction,
43 renovation or refinancing of all or a part of a facility.

44 (3) Replenishment of amounts in debt service reserve
45 funds established to pay debt service on bonds.

46 (4) Employment of an independent auditing firm to
47 perform the duties under section 1807-C(c).

48 (5) Improvement or development of all or part of a zone.

49 (6) Improvement projects, including fixtures and
50 equipment for a facility owned, in whole or in part, by a
51 public authority.

1 (7) Payment or reimbursement of reasonable
2 administrative, auditing and compliance services required by
3 this article. Reasonable administrative costs may not exceed
4 5% of the money transferred under section 1812-C. For
5 purposes of this paragraph, professional services shall not
6 be considered administrative costs.

7 (b) Prohibition.--Money transferred under section 1812-C may
8 not be utilized for maintenance or repair of a facility.

9 (c) Excess money.--

10 (1) [If] Except as set forth in paragraph (4), if the
11 amount of money transferred to the fund under sections 1811-
12 C(c) and 1812-C in any one calendar year exceeds the money
13 utilized under this section in that calendar year, the
14 contracting authority shall submit by April 15 following the
15 end of the calendar year the excess money to the State
16 Treasurer for deposit into the General Fund.

17 (2) At the time of submission to the State Treasurer,
18 the contracting authority shall submit to the State
19 Treasurer, the office and the department a detailed
20 accounting of the calculation resulting in the excess money.

21 (3) The excess money shall be credited to the
22 contracting authority and applied to the amount required to
23 be repaid under section 1812-C(c)(5) until there is full
24 repayment.

25 (4) Paragraph (1) does not apply to money utilized in a
26 pilot zone.

27 (d) Matching funds.--

28 (1) The amount of money transferred from the fund
29 utilized for the acquisition, development, construction,
30 including related site preparation and infrastructure,
31 reconstruction or renovation of facilities, or normal and
32 customary fees for professional services shall be matched by
33 private, Federal or local money at a ratio of five fund
34 dollars to one private, Federal or local dollar. The
35 contracting authority shall verify the private, Federal or
36 local match for a project at the time of the bond and report
37 proof of the match to the agencies. All of the following
38 shall be deemed private money:

39 (i) Equity.

40 (ii) Private developer debt and financing.

41 (iii) Soft costs associated with land development.

42 (iv) Costs of professional services associated with
43 development.

44 (v) Costs associated with improvements of the
45 parcel.

46 (vi) Costs of land acquisition and real estate
47 transactions.

48 (1.1) Private, Federal or local dollars invested in any
49 single year or multiple years may be amortized over the term
50 of the private or public financing provided to the project in
51 order to meet the matching fund ratio of five fund dollars to

one private, Federal or local dollar invested in the project.

(2) By April 1 following the baseline year and for each year thereafter, the contracting authority shall file an annual report with the Department of Community and Economic Development, the office and the department that contains a detailed account of the fund money expenditures and the private, Federal or local money expenditures and a calculation of the ratio in paragraph (1) for the prior calendar year.

(3) If it is determined that insufficient private, Federal or local money was utilized under paragraph (1), the amount of fund money utilized under paragraph (1) in the prior calendar year shall be deducted from the next transfer of the fund.

Section 1814-C. Transfer of property.

(a) Property.--Parcels in a zone where a facility has not been constructed, reconstructed or renovated using money under this article may be transferred out of the zone, if the contracting authority provides a notarized certification, confirmed in the annual audit required under section 1807-C(c), that no fund dollars were used on the property. Additional acreage, not to exceed the acreage transferred out of the zone, may be [simultaneously] added to the zone.

(a.1) Public meeting.--Prior to requesting approval, the contracting authority shall hold a public meeting to consider the proposed transfer. At the meeting, any interested party may attend and offer comment on the proposal change.

(a.2) Infeasibility.--

(1) If no activity in furtherance of development has taken place on the parcel within eight years of the enactment of this section or designation of the zone, whichever occurs later, the contracting authority may conduct a public hearing on the feasibility of the parcel to continue with the designation pursuant to a request from the city or municipality where the parcel sits. The hearing shall be held and notice provided to the owner of the parcel in accordance with section 908 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. For purposes of this section, activity shall include, but not be limited to, construction, building, renovation, reconstruction, site preparation and site development.

(2) If the contracting authority determines that the project is no longer feasible, the contracting authority shall issue a written opinion within 45 days of the hearing setting forth the reasons supporting the determination and verifying that no activity has taken place. The decision may be appealed in accordance with section 1001-A of the Pennsylvania Municipalities Planning Code.

(b) Approval.--A transfer under subsections (a) and (a.2) must be approved by the Department of Community and Economic Development in consultation with the office and the department.

1 Section 10. The definition of "contracting authority" in
2 section 1902-B of the act is amended to read:

3 Section 1902-B. Definitions.

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

7 * * *

8 "Contracting authority." An authority created under 53
9 Pa.C.S. Ch. 56 (relating to municipal authorities) for the
10 purpose of designating a neighborhood improvement zone and
11 constructing a facility or other authority created under the
12 laws of this Commonwealth which is eligible to apply for and
13 receive redevelopment assistance capital grants under Chapter 3
14 of the act of February 9, 1999 (P.L.1, No.1), known as the
15 Capital Facilities Debt Enabling Act. Notwithstanding the
16 provisions of 53 Pa.C.S. § 5610 (relating to governing body) and
17 any other law, the appointment of any member of the board of the
18 contracting authority for the term of a board member which
19 begins after July 1, 2017, shall be made as follows:

20 (1) three members appointed by the President Pro Tempore
21 of the Senate;

22 (2) three members appointed by the Leader of the caucus
23 of the member of the House of Representatives whose district
24 includes the majority of the zone; and

25 (3) three members appointed by the mayor of the city in
26 which the zone is located in accordance with 53 Pa.C.S. Ch.
27 56.

28 * * *

29 Section 11. The act is amended by adding a section to read:
30 Section 1904.3-B. Transfer of property.

31 (a) Transfer of Parcels.--Parcels in a zone may be
32 transferred out of the zone and replaced with parcels not to
33 exceed the acreage transferred out of the zone by the
34 contracting authority, if:

35 (1) The department certifies that there is currently no
36 activity in the parcels transferred in the zone that
37 generates tax receipts or other revenue to the Commonwealth.

38 (2) The municipality where the zone is located certifies
39 that there is currently no activity in the parcels
40 transferred into the zone that generates tax receipts or
41 other revenue, other than taxes on real property, to the
42 municipality and the school district and county where the
43 zone is located.

44 (b) Public Hearing.--The following apply:

45 (1) For a parcel identified by the contracting authority
46 to be transferred out of the zone, the contracting authority
47 may conduct a public hearing pursuant to a request from an
48 owner of real estate located within the parcel or the city or
49 municipality where the parcel sits. The hearing shall be held
50 and notice of the hearing provided to the owner of the parcel
51 in accordance with section 908 of the act of July 31, 1968

1 (P.L.805, No.247), known as the Pennsylvania Municipalities
2 Planning Code.

3 (2) If the contracting authority determines that it will
4 transfer a parcel out of the zone, the contracting authority
5 shall issue a written opinion within 45 days of the hearing
6 setting forth the reasons supporting the determination.

7 Section 11.1. Section 1911-D(c) of the act, added July 13,
8 2016 (P.L.526, No.84), is amended to read:
9 Section 1911-D. Additional keystone opportunity zones.

10 * * *

11 (c) Application.--In order to receive a designation under
12 this section, the department must receive an application from a
13 political subdivision or its designee no later than October 1,
14 [2016] 2018. The application must contain the information
15 required under section 302(a)(1), (2)(i) and (ix), (5) and (6)
16 of the KOZ Act. The department, in consultation with the
17 Department of Revenue, shall review the application and, if
18 approved, issue a certification of all tax exemptions,
19 deductions, abatements or credits under this act for the zone
20 within three months of receipt of the application. The
21 department shall act on an application for a designation under
22 section 302(a)(1) of the KOZ Act by December 31, [2016] 2018.
23 The department may make designations under this section on a
24 rolling basis during the application period.

25 * * *

26 Section 11.2. Section 2166 of the act is amended to read:

27 Section 2166. Timely Mailing Treated as Timely Filing and
28 Payment.--Notwithstanding the provisions of any State tax law to
29 the contrary, whenever a report or payment of all or any portion
30 of a State tax is required by law to be received by the
31 department or other agency of the Commonwealth on or before a
32 day certain, the taxpayer shall be deemed to have complied with
33 the law if the letter transmitting the report or payment of the
34 tax which has been received by the department is postmarked by
35 the United States Postal Service on or prior to the final day on
36 which the payment is to be received. For the purposes of this
37 article, presentation of a receipt indicating that the report or
38 payment was mailed by registered or certified mail on or before
39 the due date shall be evidence of timely filing and payment. Any
40 inheritance tax return filed after July 1, 2013, under section
41 2136 that reports transfers of property that are exempt from the
42 inheritance tax under section 2111(s), (s.1) and (t) shall be
43 considered timely filed if filed within one year of the tax
44 return due date, including an extended due date.

45 Section 12. The act is amended by adding an article to read:

46 ARTICLE XXII

47 ELECTRIC GRID VIRTUAL FINANCIAL TRANSACTIONS TAX

48 Section 2201. Definitions.

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

1 "Decrement transaction." A virtual transaction that is a
2 cleared hourly bid, expressed in megawatt hours, to purchase
3 energy at a specified location in the Day-Ahead Energy Market if
4 the day-ahead locational marginal price is less than or equal to
5 the specified bid price.

6 "Electric grid virtual financial transaction." An increment
7 transaction, decrement transaction or an up-to-congestion
8 transaction.

9 "Increment transaction." A virtual transaction that is a
10 cleared hourly offer, expressed in megawatt hours, to sell
11 energy at a specified location in the Day-Ahead Energy Market if
12 the day-ahead locational marginal price is greater than or equal
13 to the specified offer price.

14 "Regional transmission organization." An entity, located in
15 this Commonwealth, designated by the Federal Energy Regulatory
16 Commission to operate a multistate electric grid, or its
17 affiliates.

18 "Up-to-congestion transaction." A virtual transaction that
19 is a cleared bid in the Day-Ahead Energy Market based on the
20 difference in the locational marginal prices between two points.
21 The cleared up-to-congestion bid consists of a specified source
22 and sink path, megawatt hour quantity and a bid spread that
23 identifies the amount that the market participant is willing to
24 pay for a congestion and loss position between the source and
25 the sink.

26 Section 2202. Imposition.

27 There is imposed a tax at the rate of five percent on the
28 gross transaction amount without deduction of electric grid
29 virtual financial transactions in the electricity markets
30 administered by the regional transmission organization. The tax
31 shall be imposed on and owed by the entity initiating the
32 electric grid virtual financial transaction in the electricity
33 markets administered by the regional transmission organization.
34 The tax shall be assessed on the entities initiating electric
35 grid virtual financial transactions and collected at the time of
36 settlement of the electric grid virtual transactions.

37 Section 2203. Remittance.

38 (a) Time.--The tax imposed under section 2202 shall be:

39 (1) due on the 20th day of each month for gross
40 transaction amounts without deduction attributable to
41 electric grid virtual transactions occurring in the prior
42 calendar month; and

43 (2) remitted to the Department of Revenue by the
44 regional transmission organization that administers the
45 electricity markets in which the electric grid virtual
46 financial transaction was initiated.

47 (b) Report.--The tax shall be reported in the form or manner
48 required by the Department of Revenue.

49 Section 2204. Procedure and enforcement.

50 Chapters IV, V, VI, VII and VIII of Part VI of Article II are
51 incorporated by reference into this article in so far as they

1 are consistent with this article and applicable to the tax
2 imposed under this article.

3 Section 13. Section 2301(e) of the act is amended and the
4 section is amended by adding a subsection to read:

5 Section 2301. Public Transportation Assistance Fund.--* * *

6 (e) [There] Except as provided in subsection (e.1), there is
7 hereby imposed on each rental of a motor vehicle subject to tax
8 under Article II a fee of two dollars (\$2) for each day or part
9 of a day for which the vehicle is rented.

10 (e.1) (1) There is hereby imposed on each rental of a motor
11 vehicle subject to tax under Article II and used in carsharing a
12 fee for each day or part of a day computed according to the
13 following schedule:

<u>Rental Interval</u>	<u>Fee</u>
<u>Less than 2 hours</u>	<u>\$.25</u>
<u>2 to 3 hours</u>	<u>\$.50</u>
<u>More than 3, but less</u>	
<u>than 4 hours</u>	<u>\$1.25</u>
<u>4 hours or more</u>	<u>\$2.00</u>

20 (2) For purposes of this subsection, the term "carsharing"
21 shall mean a membership based service that provides an
22 alternative to personal car ownership and which meets the
23 following conditions:

24 (i) Does not require a trip-specific written agreement each
25 time a member rents a vehicle.

26 (ii) Does not require an attendant to be present at the
27 beginning or end of a rental.

28 (iii) Offers members access to a dispersed network of shared
29 vehicles 24-hours per day, 7 days per week, 365 days per year.

30 (iv) Allows a vehicle to be rented on a per minute, per
31 hour, per day, or per trip basis, and at per mile or per
32 kilometer rates, which typically include fuel, insurance and
33 maintenance.

34 Section 13.1. The act is amended by adding articles to read:

ARTICLE XXIV

FIREWORKS

37 Section 2401. Definitions.

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

41 "APA 87-1." The American Pyrotechnics Association Standard
42 87-1: Standard for Construction and Approval for Transportation
43 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001
44 edition, or any subsequent edition.

45 "Consumer fireworks."

46 (1) Any combustible or explosive composition or any
47 substance or combination of substances which is intended to
48 produce visible or audible effects by combustion, is suitable
49 for use by the public, complies with the construction,
50 performance, composition and labeling requirements
51 promulgated by the Consumer Products Safety Commission in 16

1 CFR (relating to commercial practices) or any successor
2 regulation and complies with the provisions for "consumer
3 fireworks" as defined in APA 87-1 or any successor standard,
4 the sale, possession and use of which shall be permitted
5 throughout this Commonwealth.

6 (2) The term does not include devices as "ground and
7 hand-held sparkling devices," "novelties" or "toy caps" in
8 APA 87-1 or any successor standard, the sale, possession and
9 use of which shall be permitted at all times throughout this
10 Commonwealth.

11 "Display fireworks." Large fireworks to be used solely by
12 professional pyrotechnicians licensed by the Department of
13 Agriculture and designed primarily to produce visible or audible
14 effects by combustion, deflagration or detonation. The term
15 includes, but is not limited to:

16 (1) salutes that contain more than two grains or 130
17 milligrams of explosive materials;

18 (2) aerial shells containing more than 60 grams of
19 pyrotechnic compositions; and

20 (3) other display pieces that exceed the limits of
21 explosive materials for classification as consumer fireworks
22 and are classified as fireworks UN0333, UN0334 or UN0335
23 under 49 CFR 172.101 (relating to purpose and use of
24 hazardous materials table).

25 "Municipality." A city, borough, incorporated town or
26 township.

27 "NFPA 1124." The National Fire Protection Association
28 Standard 1124, Code for the Manufacture, Transportation and
29 Storage of Fireworks and Pyrotechnic Articles, 2017 edition, or
30 any subsequent edition.

31 "Occupied structure." A structure, vehicle or place adapted
32 for overnight accommodation of persons or for conducting
33 business whether or not a person is actually present.

34 "Outdoor storage unit." A consumer fireworks building,
35 trailer, semitrailer, metal shipping container or magazine
36 meeting the specifications of NFPA 1124.

37 "Temporary structure." A structure, other than a permanent
38 facility with fixed utility connections, which is in use or in
39 place for a period of 20 consecutive calendar days or less and
40 is dedicated to the storage and sale of consumer fireworks and
41 related items. The term includes temporary retail sales stands,
42 tents, canopies and membrane structures meeting the
43 specifications of NFPA 1124.

44 Section 2402. Permits.

45 (a) Permissible purposes.--Display fireworks may be
46 possessed and used by a person holding a permit from a
47 municipality at the display covered by the permit or when used
48 as authorized by a permit for any of the following:

49 (1) For agricultural purposes in connection with the
50 raising of crops and the protection of crops from bird and
51 animal damage.

1 (2) By railroads or other transportation agencies for
2 signal purposes or illumination.

3 (3) In quarrying or for blasting or other industrial
4 use.

5 (4) In the sale or use of blank cartridges for a show or
6 theater.

7 (5) For signal or ceremonial purposes in athletics or
8 sports.

9 (6) By military organizations or organizations composed
10 of veterans of the armed forces of the United States.

11 (b) Age limitation.--A display fireworks permit may not be
12 issued to a person under 21 years of age.

13 (c) Bond.--The governing body of the municipality shall
14 require a bond deemed adequate by it from the licensee in a sum
15 not less than \$50,000 conditioned for the payment of all damages
16 which may be caused to a person or property by reason of the
17 licensed display and arising from an act of the licensee or an
18 agent, an employee or a subcontractor of the licensee.

19 Section 2403. Request for extension.

20 (a) Authorization.--If, because of unfavorable weather, the
21 display for which a permit has been granted does not occur at
22 the time authorized by the permit, the person to whom the permit
23 was issued may within 24 hours apply for a request for extension
24 to the authority which granted the permit.

25 (b) Contents of request.--The request for extension shall
26 state under oath that the display was not made, provide the
27 reason that the display was not made and request a continuance
28 of the permit for a date designated within the request, which
29 shall be not later than one week after the date originally
30 designated in the permit.

31 (c) Determination.--Upon receiving the request for
32 extension, the authority, if it believes that the facts stated
33 within the request are true, shall extend the provisions of the
34 permit to the date designated within the request, which shall be
35 not later than one week after the date originally designated in
36 the permit.

37 (d) Conditions.--The extension of time shall be granted
38 without the payment of an additional fee and without requiring a
39 bond other than the bond given for the original permit, the
40 provisions of which shall extend to and cover all damages which
41 may be caused by reason of the display occurring at the extended
42 date and in the same manner and to the same extent as if the
43 display had occurred at the date originally designated in the
44 permit.

45 Section 2404. Use of consumer fireworks.

46 (a) Conditions.--A person who is at least 18 years of age
47 and meets the requirements of this article may purchase, possess
48 and use consumer fireworks.

49 (b) Prohibitions.--A person may not intentionally ignite or
50 discharge:

51 (1) Consumer fireworks on public or private property

1 without the express permission of the owner.

2 (2) Consumer fireworks or sparkling devices within, or
3 throw consumer fireworks or sparkling devices from, a motor
4 vehicle or building.

5 (3) Consumer fireworks or sparkling devices into or at a
6 motor vehicle or building or at another person.

7 (4) Consumer fireworks or sparkling devices while the
8 person is under the influence of alcohol, a controlled
9 substance or another drug.

10 (5) Consumer fireworks within 150 feet of an occupied
11 structure.

12 Section 2404.1. Use of display fireworks.

13 No display fireworks shall be ignited within 300 feet of a
14 facility.

15 Section 2405. Agricultural purposes.

16 (a) Authorization.--The governing body of a municipality
17 may, under reasonable rules and regulations adopted by it, grant
18 permits for the use of suitable fireworks for agricultural
19 purposes in connection with the raising of crops and the
20 protection of crops from bird and animal damage.

21 (b) Duration of permit.--A permit under this section shall
22 remain in effect for the calendar year in which it was issued.

23 (c) Conditions.--After a permit under this section has been
24 granted, sales, possession and use of fireworks of the type and
25 for the purpose mentioned in the permit shall be lawful for that
26 purpose only.

27 Section 2406. Rules and regulations by municipality.

28 (a) Authorization.--Permission shall be given by the
29 governing body of a municipality under reasonable rules and
30 regulations for displays of display fireworks to be held within
31 the municipality.

32 (b) Conditions.--

33 (1) Each display shall be:

34 (i) handled by a competent operator; and

35 (ii) of a character and so located, discharged or
36 fired as, in the opinion of the chief of the fire
37 department or other appropriate officer as may be
38 designated by the governing body of the municipality,
39 after proper inspection, to not be hazardous to property
40 or endanger any person.

41 (2) After permission is granted under this section,
42 possession and use of display fireworks for display shall be
43 lawful for that purpose only.

44 (3) A permit shall be transferable.

45 Section 2407. Sales locations.

46 Except as provided in section 2410, consumer fireworks shall
47 be sold only from facilities which are licensed by the
48 Department of Agriculture and that meet the following criteria:

49 (1) The facility shall comply with the provisions of the
50 act of November 10, 1999 (P.L.491, No.45), known as the
51 Pennsylvania Construction Code Act.

1 (2) The facility shall be a stand-alone permanent
2 structure.

3 (3) Storage areas shall be separated from wholesale or
4 retail sales areas to which a purchaser may be admitted by
5 appropriately rated fire separation.

6 (4) The facility shall be located no closer than 250
7 feet from a facility selling or dispensing gasoline, propane
8 or other flammable products.

9 (5) The facility shall be located at least 1,500 feet
10 from another facility licensed to sell consumer fireworks.

11 (6) The facility shall have a monitored burglar and fire
12 alarm system.

13 (7) Quarterly fire drills and preplanning meetings shall
14 be conducted as required by the primary fire department.

15 Section 2408. Fees, granting of licenses and inspections.

16 (a) Initial application fees.--

17 (1) An initial application for a license to sell
18 consumer fireworks shall be submitted to the Department of
19 Agriculture on forms prescribed and provided by the
20 department with a nonrefundable application fee as follows:

21 (i) For a facility meeting the requirements of
22 section 2407, the application shall be submitted with a
23 nonrefundable application fee of \$2,500.

24 (ii) For a facility meeting the requirements of
25 section 2410, the application shall be submitted with a
26 nonrefundable application fee of \$1,000 no later than 30
27 days prior to the first day of sale.

28 (2) An application under paragraph (1)(i) or (ii) shall
29 also be accompanied by the appropriate annual license fee as
30 provided in subsection (b).

31 (b) Annual license fees.--The annual license fee for a
32 facility licensed to sell consumer fireworks shall be as
33 follows:

34 (1) \$7,500 for a location up to 10,000 square feet;

35 (2) \$10,000 for a location up to 15,000 square feet;

36 (3) \$20,000 for a location up to 20,000 square feet; and

37 (4) \$2,000 for a temporary structure.

38 (c) Time limitations and inspections.--

39 (1) A facility meeting the requirements of section 2407
40 shall be inspected by the Department of Agriculture within 30
41 days of receipt of a complete application for a license. The
42 Department of Agriculture shall issue or deny a license
43 within 14 days of completing the inspection.

44 (2) The Department of Agriculture shall issue or deny a
45 license for a facility meeting the requirements of section
46 2410 no later than 10 days prior to the first day of sale.
47 The facility shall be available for inspection by the
48 Department of Agriculture for compliance with NFPA 1124 at
49 all times during the licensed selling period.

50 (d) Term of license.--A license issued for the sale of
51 consumer fireworks shall be effective for one year from the date

1 the license is issued.

2 (e) License renewal and inspections.--License renewal shall
3 be automatic upon payment of the appropriate annual license fee
4 under subsection (b), but each facility shall be subject to
5 annual inspections by the Department of Agriculture and at other
6 times as the department may deem appropriate.

7 (f) Condition.--No license may be issued to a convicted
8 felon or to an entity in which a convicted felon owns a
9 percentage of the equity interest.

10 Section 2409. Conditions for facilities.

11 A facility licensed by the Department of Agriculture shall be
12 exclusively dedicated to the storage and sale of consumer
13 fireworks and related items, and the facility shall operate in
14 accordance with the following rules:

15 (1) There shall be security personnel on the premises
16 for the seven days preceding and including July 4 and for the
17 three days preceding and including January 2.

18 (2) No smoking shall be permitted in the facility.

19 (3) No cigarettes or tobacco products, matches, lighters
20 or any other flame-producing devices shall be permitted to be
21 taken into the facility.

22 (4) No minors shall be permitted in the facility unless
23 accompanied by an adult, and each minor shall stay with the
24 adult in the facility.

25 (5) All facilities shall carry at least \$2,000,000 in
26 public and product liability insurance.

27 (6) A licensee shall provide its employees with
28 documented training in the area of operational safety of a
29 facility. The licensee shall provide to the Department of
30 Agriculture written documentation that each employee has
31 received the training.

32 (7) No display fireworks shall be stored or located at a
33 facility.

34 (8) No person who appears to be under the influence of
35 intoxicating liquor or drugs shall be admitted to the
36 facility, and no liquor, beer or wine shall be permitted in
37 the facility.

38 (9) Emergency evacuation plans shall be conspicuously
39 posted in appropriate locations within the facility.

40 Section 2410. Temporary structures.

41 (a) Conditions.--Notwithstanding section 2607 or any other
42 provision of law, a temporary structure may be licensed by the
43 Department of Agriculture to sell consumer fireworks if the
44 temporary structure meets all of the following requirements:

45 (1) The temporary structure is located no closer than
46 250 feet from a facility storing, selling or dispensing
47 gasoline, propane or other flammable products.

48 (2) An evacuation plan is posted in a conspicuous
49 location for a temporary structure in accordance with NFPA
50 1124.

51 (3) The outdoor storage unit, if any, is separated from

1 the wholesale or retail sales area to which a purchaser may
2 be admitted by appropriately rated fire separation.

3 (4) The temporary structure complies with NFPA 1124 as
4 it relates to retail sales of consumer fireworks in temporary
5 structures.

6 (5) The temporary structure is located at least one mile
7 from a permanent facility licensed to sell consumer
8 fireworks.

9 (6) The temporary structure does not exceed 2,500 square
10 feet.

11 (7) The temporary structure is secured at all times
12 during which consumer fireworks are displayed within the
13 structure.

14 (8) The temporary structure has a minimum of \$2,000,000
15 in public and product liability insurance.

16 (9) The sales period is limited to June 15 through July
17 8 and December 21 through January 2 of each year.

18 (10) Consumer fireworks not on display for retail sale
19 are stored in an outdoor storage unit.

20 (b) Limitations.--The sale of consumer fireworks from the
21 temporary structure is limited to the following:

22 (1) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3).

23 (2) Roman Candle (APA 87-1, 3.1.2.4).

24 (3) Mine and Shell Devices (APA 87-1, 3.1.2.5).

25 Section 2411. Attorney General.

26 (a) Registration.--Any business entity which performs,
27 provides or supervises fireworks displays or exhibitions for
28 profit shall register annually with the Attorney General.

29 (b) Rules.--The Attorney General shall promulgate rules to
30 implement this section.

31 Section 2412. Consumer fireworks tax.

32 (a) Imposition.--In addition to any other tax imposed by
33 law, a tax is imposed on each separate sale at retail of
34 consumer fireworks, which tax shall be collected by the retailer
35 from the purchaser at the time of sale and shall be paid over to
36 the Commonwealth as provided in this section. A tax imposed
37 under this subsection on each separate sale at retail shall be
38 paid to and received by the Department of Revenue and, along
39 with interest and penalties, shall be deposited into the General
40 Fund.

41 (b) Rate.--The tax authorized under subsection (a) shall be
42 imposed and collected at the rate of 12% of the purchase price
43 per item sold. The purchase price shall include State and local
44 sales taxes.

45 (c) Collection and administration.--The provisions of Part
46 VI of Article II shall apply to the tax authorized under
47 subsection (a). No additional fee shall be charged for a license
48 or license renewal other than the license or renewal fee
49 required under section 2408 and the license or renewal fee
50 authorized and imposed under Article II.

51 Section 2413. Disposition of certain funds.

1 (a) Transfer.--One-sixth of the tax collected under this
2 article, not to exceed \$2,000,000, shall be transferred annually
3 for the purpose of making grants under 35 Pa.C.S. Ch. 78 Subch.
4 C (relating to Emergency Medical Services Grant Program).

5 (b) Payments.--The transfer required under subsection (a)
6 shall be made in two equal payments by September 15 and March
7 15.

8 Section 2414. Penalties.

9 The following shall apply:

10 (1) A person, a copartnership, an association or a
11 corporation using consumer fireworks in violation of the
12 provisions of this article commits a summary offense and,
13 upon conviction, shall be punished by a fine of not more than
14 \$100.

15 (2) A person, a copartnership, an association or a
16 corporation selling consumer fireworks in violation of the
17 provisions of this act commits a misdemeanor of the second
18 degree.

19 (3) A person, a copartnership, an association or a
20 corporation selling display fireworks in violation of the
21 provisions of this act commits a felony of the third degree.

22 (4) A person, a copartnership, an association or a
23 corporation selling federally illegal explosives such as
24 devices as described in 49 CFR 173.54 (relating to forbidden
25 explosives) or those devices that have not been tested,
26 approved and labeled by the United States Department of
27 Transportation, including, but not limited to, those devices
28 commonly referred to as "M-80," "M-100," "blockbuster,"
29 "cherry bomb" or "quarter or half stick" explosive devices,
30 in violation of the provisions of this act commits a felony
31 of the third degree.

32 Section 2415. Removal, storage and destruction.

33 The Pennsylvania State Police, a sheriff or police officer
34 shall take, remove or cause to be removed at the expense of the
35 owner all stocks of consumer fireworks or display fireworks or
36 combustibles offered or exposed for sale, stored or held in
37 violation of this article. The owner shall also be responsible
38 for the storage and, if deemed necessary, the destruction of
39 these fireworks.

40 ARTICLE XXIV-A

41 UNCONVENTIONAL GAS WELLS

42 Section 2401-A. Definitions.

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

46 "Average annual price of natural gas." As defined in 58
47 Pa.C.S. § 2301 (relating to definitions).

48 "Commission." The Pennsylvania Public Utility Commission.

49 "Department." The Department of Environmental Protection of
50 the Commonwealth.

51 "Meter." A device to measure the passage of volumes of gases

1 or liquids past a certain point.
2 "Natural gas." As defined in 58 Pa.C.S. § 2301.
3 "Producer." As defined in 58 Pa.C.S. § 2301.
4 "Sever." The extraction or other removal of natural gas from
5 an unconventional formation in this Commonwealth. The term does
6 not include natural gas, in gaseous or liquid form, which is
7 burned, used, consumed or otherwise employed in oil and gas
8 operations at a natural gas well site:
9 (1) for secondary recovery;
10 (2) for re-pressuring;
11 (3) for pressure maintenance; or
12 (4) as fuel for equipment.
13 "Trigger date." The date 60 days after the effective date of
14 this section.
15 "Unconventional formation." As defined in 58 Pa.C.S. § 2301.
16 "Unconventional gas well." As defined in 58 Pa.C.S. § 2301.
17 "Unit." A thousand cubic feet (Mcf) of natural gas at a
18 temperature of 60 degrees Fahrenheit and an absolute pressure of
19 14.73 pounds per square inch, in accordance with American Gas
20 Association (AGA) standards and according to Boyle's law for the
21 measurement of gas under varying pressures with deviations
22 therefrom as follows:
23 (1) The average absolute atmospheric pressure shall be
24 assumed to be 14.4 pounds to the square inch, notwithstanding
25 the actual elevation or location of point of delivery above
26 sea level or variations in the atmospheric pressure.
27 (2) The temperature of the gas passing the meters shall
28 be determined by the continuous use of a recording
29 thermometer installed so that the thermometer may properly
30 record the temperature of the gas flowing through the meters.
31 The arithmetic average of the temperature recorded each 24-
32 hour day shall be used in computing gas volumes. If a
33 recording thermometer is not installed, or if installed and
34 not operating properly, an average flowing temperature of 60
35 degrees Fahrenheit shall be used in computing gas volume.
36 (3) The specific gravity of the gas shall be determined
37 by tests made by the use of an Edwards or Acme gravity
38 balance annually or at intervals as are found necessary in
39 practice. Specific gravity shall be used in computing gas
40 volumes.
41 (4) The deviation of the natural gas from Boyle's law
42 shall be determined by tests annually or at other shorter
43 intervals as are found necessary in practice. The apparatus
44 and the method to be used in making the tests shall be in
45 accordance with recommendations of the National Bureau of
46 Standards of the Department of Commerce or Report No. 3 of
47 the Gas Measurement Committee of the American Gas
48 Association, or any amendments thereof. The results of the
49 tests shall be used in computing the volume of gas delivered.
50 "Wellhead meter." A meter placed at a producing site to
51 measure the actual volume of natural gas severed.

1 Section 2402-A. Volume differential tax.

2 (a) Imposition.--Each producer subject to the unconventional
3 gas well fee imposed under 58 Pa.C.S. § 2302 (relating to
4 unconventional gas well fee) shall pay a volume differential
5 tax.

6 (b) Computation.--The volume differential tax for each
7 unconventional gas well shall be calculated by applying the
8 applicable rate under subsection (b.1) to natural gas severed
9 from the unconventional gas well during the imposition period
10 under subsection (b.2).

11 (b.1) Tax rate.--The tax rate shall be as follows:

12 (1) If the average annual price of natural gas for the
13 calendar year immediately preceding the start of the
14 imposition period is not more than \$2.25, the surcharge rate
15 shall be \$0.015 per unit severed.

16 (2) If the average annual price of natural gas for the
17 calendar year immediately preceding the start of the
18 imposition period is greater than \$2.25 and less than \$3.00,
19 the tax rate shall be \$0.02 per unit severed.

20 (3) If the average annual price of natural gas for the
21 calendar year immediately preceding the start of the
22 imposition period is greater than \$2.99 and less than \$5.00,
23 the tax rate shall be \$0.025 per unit severed.

24 (4) If the average annual price of natural gas for the
25 calendar year immediately preceding the start of the
26 imposition period is greater than \$4.99 and less than \$6.00,
27 the tax rate shall be \$0.03 per unit severed.

28 (5) If the average annual price of natural gas for the
29 calendar year immediately preceding the start of the
30 imposition period is more than \$5.99, the tax rate shall be
31 \$0.035 per unit severed.

32 (b.2) Imposition period.--The imposition period shall be as
33 follows:

34 (1) For fiscal year 2017-2018, the imposition period
35 shall be from July 1, 2017, to April 30, 2018.

36 (2) For fiscal year 2018-2019, and each fiscal year
37 thereafter, the imposition period shall be from May 1 of the
38 preceding fiscal year to April 30 of the current fiscal year.

39 (b.3) Payment.--The volume differential tax imposed under
40 this article shall be due on the same day the report is due
41 under subsection (b.4). The tax shall become delinquent if not
42 remitted to the commission on the reporting date.

43 (b.4) Report.--By June 15, 2018, and June 15 of each year
44 thereafter, every producer shall submit payment of the volume
45 differential tax to the commission and a report on a form
46 prescribed by the commission for the imposition period.

47 (c) Volume measurement.--

48 (1) Except as provided under paragraph (2), for purposes
49 of computing the volume differential tax, natural gas severed
50 shall be measured at the wellhead meter.

51 (2) Natural gas severed prior to the trigger date shall

1 be measured according to the standards and methods used for
2 reporting natural gas production to the department.

3 (d) Administration.--The volume differential tax shall be
4 administered and enforced in the same manner as the
5 unconventional gas well fee under 58 Pa.C.S. Ch. 23 (relating to
6 unconventional gas well fee).

7 (e) Use of funds.--Money collected from the volume
8 differential tax under this section shall be transferred to the
9 State Treasurer for allocation annually as follows:

10 (1) If the total amount of the fees submitted by April 1
11 of each year under 58 Pa.C.S. § 2303(b) (relating to
12 administration) is less than \$200,000,000, an amount equal to
13 the difference between \$200,000,000 and that total amount
14 shall be deposited into the Unconventional Gas Well Fund and
15 shall be distributed as provided under 58 Pa.C.S. §§ 2314
16 (relating to distribution of fee) and 2315 (relating to
17 Statewide initiatives).

18 (2) After deposit under paragraph (1), remaining money
19 shall be deposited into the General Fund.

20 (f) Independent Fiscal Office.--Beginning September 30,
21 2018, and quarterly thereafter, the Independent Fiscal Office
22 shall publish a report on its publicly accessible Internet
23 website that shows the calculation of an average effective tax
24 rate of the volume differential tax imposed under this article
25 and the unconventional gas well fee imposed under 58 Pa.C.S. Ch.
26 23, imposed for the preceding imposition period. The average
27 effective tax rate shall quantify the implicit tax burden
28 imposed on a producer by both the volume differential tax and
29 the unconventional gas well fee in a given year. The average
30 effective tax rate shall be based upon the market value of
31 natural gas at the wellhead using regional price information
32 from hubs located in this Commonwealth and postproduction costs
33 shall be deducted to approximate the value of natural gas at the
34 wellhead. The report shall include the methodology used to
35 calculate the average effective tax rate.

36 Section 2403-A. Issuance of permit.

37 (a) Operations.--Notwithstanding any other provision of law,
38 a permit application to undertake an activity related to
39 unconventional oil and gas development which has not been denied
40 by the department within the applicable time period established
41 for review shall be deemed approved. If the review period for
42 the permit has been extended for cause, the department shall
43 provide a refund of the fee to the applicant. If the department
44 has notified the person of deficiencies with the application,
45 the period of time from the date of the receipt of the
46 deficiencies to the date of the receipt of the person's response
47 shall toll the applicable time period established for review.
48 Only two tolling periods shall be authorized.

49 (b) Construction.--Nothing under this section shall be
50 construed to relieve a person who commences activity under this
51 section from complying with each law pertaining to the activity

1 for which the permit is sought.

2 (c) Definitions.--As used in this section, the following
3 words and phrases shall have the meanings given to them in this
4 subsection unless the context clearly indicates otherwise:

5 "Applicable time period established for review." As follows:

6 (1) For a well permit required under 58 Pa.C.S. §
7 3211(e) (relating to well permits), within:

8 (i) forty-five calendar days of submission; or

9 (ii) sixty calendar days of submission if the review
10 period has been extended for cause.

11 (2) For a general air quality permit, within 30 calendar
12 days of submission.

13 (3) For an earth disturbance permit as required under 25
14 Pa. Code § 102.5 (relating to permit requirements), within:

15 (i) fifty-three business days of submission; or

16 (ii) twenty-four business days of submission for an
17 expedited application.

18 ARTICLE XXIV-B

19 UNCONVENTIONAL NATURAL GAS AIR QUALITY PROTECTION

20 Section 2401-B. Definitions.

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

24 "Department." The Department of Environmental Protection of
25 the Commonwealth.

26 "Temporary activity." Well site and access road preparation,
27 pad construction, drilling and well completion.

28 Section 2402-B. Air quality permits for unconventional natural 29 gas well sites.

30 (a) Publication.--Not earlier than December 31, 2017, the
31 department shall submit to the Legislative Reference Bureau for
32 publication in the Pennsylvania Bulletin each proposed final
33 General Plan Approval and/or General Operating Permit for
34 Unconventional Natural Gas Well Site Operations and Remote
35 Pigging Stations and each General Plan Approval and/or General
36 Operating Permit for Natural Gas Compression Stations,
37 Processing Plants and Transmission Stations modified as a result
38 of the "extension of the comment period" set forth at 47 Pa.B.
39 1235 (February 25, 2017) or as a result of a subsequent
40 extension period.

41 (b) Consideration.--Within 14 legislative days following
42 publication of the proposed final permits under subsection (a),
43 the Air Quality Permit Advisory Committee shall consider each
44 permit and shall vote whether to approve or reject the proposed
45 permit. The following shall apply:

46 (1) If a majority of the Air Quality Permit Advisory
47 Committee votes to disapprove a proposed final permit, the
48 department shall revise that proposed final permit and do the
49 following:

50 (i) review and consider the reasons for disapproval
51 and modify the proposed final permit; and

1 (ii) resubmit the new version of the proposed final
2 permit to the Air Quality Permit Advisory Committee
3 within 14 legislative days.

4 (2) If a majority of the Air Quality Permit Advisory
5 Committee votes to approve a proposed final permit, the
6 following shall apply:

7 (i) The department shall submit the approved permit
8 to the Legislative Reference Bureau for publication in
9 the Pennsylvania Bulletin.

10 (ii) The permit shall take effect upon publication
11 in the Pennsylvania Bulletin.

12 (c) Applicability.--The requirements of a General Plan
13 Approval and General Operating Permit for Unconventional Natural
14 Gas Well Site Operations and Remote Pigging Stations shall not
15 apply to any of the following:

16 (1) A natural gas well site which:

17 (i) commenced production prior to the date of
18 publication under subsection (b) (2) (ii); and

19 (ii) continues to meet the requirements to retain
20 that exemption.

21 (2) Temporary activity.

22 Section 2403-B. Air Quality Permit Advisory Committee.

23 (a) Establishment.--The Air Quality Permit Advisory
24 Committee is established.

25 (b) Composition.--The Air Quality Permit Advisory Committee
26 shall consist of the following:

27 (1) One member appointed by the Governor.

28 (2) The following members of the Senate:

29 (i) One member appointed by the President pro
30 tempore of the Senate.

31 (ii) One member appointed by the Majority Leader of
32 the Senate.

33 (iii) One member appointed by the Minority Leader of
34 the Senate.

35 (3) The following members of the House of

36 Representatives:

37 (i) One member appointed by the Speaker of the House
38 of Representatives.

39 (ii) One member appointed by the Majority Leader of
40 the House of Representatives.

41 (iii) One member appointed by the Minority Leader of
42 the House of Representatives.

43 (c) Appointments.--Appointments to the Air Quality Permit
44 Advisory Committee shall be made within 60 days of the effective
45 date of this section.

46 ARTICLE XXIV-C

47 ENVIRONMENTAL PERMITTING REFORM

48 Section 2401-C. Definitions.

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

1 "Department." The Department of Environmental Protection of
2 the Commonwealth.

3 "Licensed professional." An individual licensed by the
4 Commonwealth as a professional landscape architect, engineer,
5 land surveyor or geologist.

6 "Permit." A written authorization issued by the department
7 or an authorization under a delegated agreement by the
8 department to engage in a regulated activity, including, but not
9 limited to, a new permit, permit renewal, permit amendment,
10 permit modification, permit transfer, change of ownership, plan
11 approval or registration under a general permit. The term does
12 not include a certification or license.

13 "Permit application." The document submitted to the
14 department by an applicant that, if approved, grants a permit to
15 an applicant.

16 "Permit decision." The issuance or denial of a permit.

17 "Permit decision delay." The failure of the department to
18 issue a permit decision within:

19 (1) the time period specified by statute or regulation
20 or by the relevant time period established under 4 Pa. Code
21 Ch. 7a Subch. H (relating to permit decision guarantee for
22 the Department of Environmental Protection); or

23 (2) 30 days after the submission of a permit application
24 or request for plan approval or other authorization when no
25 time period is specified by statute, regulation or 4 Pa. Code
26 Ch. 7a Subch. H.

27 "Permit program." The operation and management of permits
28 identified which are subject to permit decision delay.
29 Section 2402-C. Initial review by department.

30 Within 30 days after the effective date of this section, the
31 department shall review all permit decisions and permit decision
32 delays during the immediately prior calendar year and submit a
33 report of findings to the chairperson and minority chairperson
34 of the Environmental Resources and Energy Committee of the
35 Senate and the chairperson and minority chairperson of the
36 Environmental Resources and Energy Committee of the House of
37 Representatives.

38 Section 2403-C. Third-party review under permit program.

39 (a) Establishment and administration of permit program.--
40 Within one year of the issuance of the initial report under
41 section 2402-C, the department shall establish and implement a
42 permit program. The department shall contract with third-party
43 licensed professionals for the purpose of administering the
44 permit program.

45 (b) Transfer of information.--Within one year after the
46 establishment of the permit program under subsection (a), the
47 department shall transfer information regarding permit decisions
48 and permit decision delays to the third-party licensed
49 professionals with whom the department has contracted.

50 (c) Fees.--Fees collected by the department from permit
51 applications in the permit program shall be remitted to the

1 respective third-party licensed professionals with whom the
2 department has contracted for the permit program.

3 (d) Agent of Commonwealth.--A third-party licensed
4 professional with whom the department has contracted for the
5 permit program shall be duly recognized as an agent of the
6 Commonwealth for the permit program to resolve each permit
7 application which is subject to a permit decision delay and
8 permit decisions under subsection (e).

9 (e) Selection.--A permit applicant may select a third-party
10 licensed professional with whom the department has contracted
11 for the permit program to review the permit application.

12 Section 2404-C. Annual reports.

13 No later than January 31 of each year, the department shall
14 submit to the General Assembly an annual report which, at a
15 minimum, shall contain the following information from the
16 immediately prior calendar year:

17 (1) The number of permit applications received.

18 (2) The number of permit applications reviewed by the
19 department and third-party licensed professionals with whom
20 the department has contracted for the permit program.

21 (3) The average time frame for permit decisions by the
22 department and third-party licensed professionals with whom
23 the department has contracted for the permit program.

24 (4) The number and average workload of third-party
25 licensed professionals with whom the department has
26 contracted for the permit program.

27 (5) The number and average workload of staff members
28 within the department reviewing permit applications,
29 organized by each regional office of the department.

30 Section 2405-C. Rules and regulations.

31 The department shall promulgate rules and regulations
32 necessary to implement the provisions of this article.

33 Section 2406-C. Applicability.

34 This article shall apply to all permits required to comply
35 with statutes and regulations administered by the department.

36 Section 2407-C. Effect of article.

37 Nothing in this article shall be construed to limit or
38 otherwise alter the department's authority to revoke a permit
39 for failure to comply with the laws of this Commonwealth.

40 Section 14. Section 2702(a) and (a.1)(2) of the act are
41 amended to read:

42 Section 2702. Petition for reassessment.

43 (a) General rule.--A taxpayer may file a petition for
44 reassessment with the department within [90] 60 days after the
45 mailing date of the notice of assessment.

46 (a.1) Petition for review of tax adjustment not resulting in
47 an increase in liability.--

48 * * *

49 (2) A taxpayer must file a petition for review under
50 this subsection within [90] 60 days of the mailing date of
51 the department's notice of adjustment. A taxpayer's failure

1 to file a petition under this subsection shall not prejudice
2 the taxpayer's right to file a petition in a subsequent tax
3 year.

4 * * *

5 Section 15. Section 2703(e) and (f) of the act are amended
6 and the section is amended by adding a subsection to read:
7 Section 2703. Petition procedure.

8 * * *

9 (e) Exception to time limit for decision and order.--If at
10 [the] any time [of the filing of] a petition is under the
11 jurisdiction of the department and proceedings are pending in a
12 court of competent jurisdiction wherein any claim made in the
13 petition may be established, the department, upon the written
14 request of the petitioner or under the department's initiative,
15 may defer consideration of the petition until the expiration
16 date of the appeal period from the final judgment of the court
17 of highest jurisdiction determining the question or questions
18 involved in the petition has been decided. If consideration of
19 the petition is deferred, the department shall issue a decision
20 and order disposing of the petition within six months after the
21 final judgment.

22 (e.1) Additional deferment authorized.--If a matter pending
23 before the department would be materially affected by an audit
24 or other proceeding before the Internal Revenue Service or by an
25 audit or other proceeding conducted by the Commonwealth or
26 another state, the department, upon the written request of the
27 petitioner or under the department's initiative, may defer
28 consideration of the petition until such time as the other audit
29 or proceeding is completed. If consideration of the petition is
30 deferred, the department shall issue a decision and order
31 disposing of the petition within six months after the audit or
32 other proceeding is completed.

33 (f) Failure of department to take action.--The failure of
34 the department to dispose of the petition within the time period
35 provided for by subsection (d) [or], (e) or (e.1) shall act as a
36 denial of the petition. Notice of the department's failure to
37 take action and the denial of the petition shall be mailed to
38 the petitioner.

39 Section 16. Section 2704(a), (b), (d.2), (d.3), (d.5),
40 (d.7), (e), (f) and (h) of the act are amended and the section
41 is amended by adding subsections to read:
42 Section 2704. Review by board.

43 (a) Petition for review of a decision and order.--Within
44 [90] 60 days after the mailing date of the department's notice
45 of decision and order on a petition filed with it, a taxpayer
46 may petition the board to review the decision and order of the
47 department.

48 (b) Petition for review of denial by department's failure to
49 act.--A petition for review may be filed with the board within
50 [90] 60 days after the mailing date of the department's notice
51 to the petitioner of its failure to dispose of the petition

1 within the time periods prescribed by section 2703(d) [or] (e)
2 or (e.1).

3 * * *

4 (d.2) Evidence.--The petitioner and the department shall be
5 entitled to present oral and documentary evidence in support of
6 their positions. The petitioner and the department will be
7 provided the opportunity to comment upon any submitted evidence
8 and provide written and oral argument to support their
9 positions. Written arguments and evidence submitted to the board
10 shall be submitted to the other party. If written arguments and
11 evidence are not submitted to the other party, the board shall
12 not take notice of the written arguments or evidence.

13 (d.3) Ex parte communications.--The members or staff of the
14 board shall not participate in any ex parte communications with
15 the petitioner or the department or their representatives
16 regarding the specific procedure or merits of any tax appeal
17 pending before the board unless the other party agrees. Any
18 information or documentation provided to the members or staff of
19 the board by the petitioner or the department or their
20 representatives in a communication regarding the specific
21 procedure or merits of any appeal pending before the board shall
22 also be promptly provided to the other party.

23 * * *

24 (d.5) Request for hearing.--Upon written request of the
25 petitioner or the department or when deemed necessary by the
26 board, the board shall schedule a hearing to review a petition.
27 The petitioner and the department shall be notified by the board
28 of the date, time and place where the hearing will be held. If
29 the petitioner or the department requests a hearing under this
30 subsection, the petitioner or the department shall provide
31 notice to the other party at least ten days before the date of
32 the hearing. If the petitioner or the department fails to
33 provide notice as required under this subsection, no hearing
34 shall be scheduled. A request for a hearing submitted by one
35 party shall afford both parties the opportunity for a hearing.

36 * * *

37 (d.7) Compromise settlement.--The following apply:

38 (1) The board shall establish procedures to facilitate
39 the compromise settlement of issues on appeal. A compromise
40 settlement shall be ordered by the board only with the
41 agreement of both the petitioner and the department. The
42 provisions of section 2707(c) shall be applicable to
43 compromise settlements under this section.

44 (2) A compromise settlement may be submitted to the
45 board at any time before the board's decision and order,
46 including after the board grants reconsideration of a
47 decision and order.

48 (3) If a payment is due to the department under a
49 compromise settlement, the petitioner shall pay the liability
50 due within 60 days of the date of a notice from the
51 department specifying the board's decision and order. If the

petitioner fails to pay the liability due within 60 days of the date of a notice from the department specifying the board's decision and order, the decision or order shall be void and, upon notice by the department, the board shall issue a decision and order denying the petition.

(4) Notwithstanding any other provision of this section, if the parties are negotiating a compromise settlement, both parties may request and the board may extend the time period for disposing the petition.

(e) [Decision and order.--The board shall issue a decision and order in writing disposing of a petition on any basis as it deems to be in accordance with law and equity. A decision and order shall include the conclusions reached and the facts on which the decision was based. The decision and order shall be approved by a majority of the board. A copy of the decision and order and any dissenting opinion shall be sent to the petitioner utilizing the method identified by the petitioner and by electronic means to the department.] Types of claims.--The following apply:

(1) All petitions in which, in the aggregate, the contested tax does not exceed the threshold amount under paragraph (3), shall be addressed by the board as a summary claim unless the petitioner or department elects to treat the petition as a standard claim. A summary claim shall be addressed by the board under the following procedures:

(i) Upon the filing of a summary claim, the board shall issue a notice of intent to resolve the claim summarily to the petitioner and the department.

(ii) The petitioner or the department shall be afforded 60 days from the mailing date of the notice under subparagraph (i) to make an election to treat as a standard claim.

(iii) If the board does not receive an election prior to the expiration of the 60-day period under subparagraph (ii), the board shall address the petition as a summary claim.

(iv) The board shall issue an order in writing disposing of a petition under this paragraph on any basis as it deems to be in accordance with law and equity. The order shall include the conclusions reached and the facts on which the decision was based. An order disposing of a petition must be approved by a majority of board members. A copy of an order, including any dissenting opinions, shall be sent to the petitioner utilizing the method identified by the petitioner and to the department by electronic means.

(v) A summary claim order shall not be appealable, be published on the board's publicly accessible Internet website subject to ex parte communications prohibitions or be precedent under section 210 of the act of December 20, 1996 (P.L.1504, No.195), known as the Taxpayers' Bill

1 of Rights.

2 (2) All petitions in which, in the aggregate, the
3 contested tax is in excess of the threshold amount
4 established under paragraph (3), shall be addressed by the
5 board as a standard claim. A standard claim shall be
6 addressed by the board under the following procedures:

7 (i) The board shall issue an order in writing
8 disposing of a petition on any basis as it deems in
9 accordance with law and equity. The order shall include
10 the conclusions reached and the facts on which the
11 decision was based. The decision and order must be
12 approved by a majority of the board members. A copy of
13 the decision and order, including any dissenting
14 opinions, shall be sent to the petitioner utilizing the
15 method identified by the petitioner and to the department
16 by electronic means.

17 (ii) A standard claim order based in equity shall
18 not be precedent under section 210 of the Taxpayers' Bill
19 of Rights.

20 (3) The threshold amount shall be \$6,000 for determining
21 whether a petition shall be treated as a standard claim or
22 summary claim.

23 (f) Time limit for decision and order.--

24 (1) Except as provided in paragraphs (2) and (3), the
25 board shall issue a decision and order disposing of a
26 petition within six months after receipt of the petition.
27 Upon the request of the petitioner or the department, the
28 board may extend the time period for the board to dispose of
29 the petition for one additional six-month period.

30 (2) If at [the] any time [of the filing of] a petition
31 is under the jurisdiction of the board and proceedings are
32 pending in a court of competent jurisdiction in which any
33 claim made in the petition may be established, the board,
34 upon the written request of the petitioner [may,] or
35 department, shall defer consideration of the petition until
36 the expiration date of the appeal period from the final
37 judgment of the court of highest jurisdiction determining the
38 question or questions involved in the petition has been
39 decided. If consideration of the petition is deferred, the
40 board shall issue a decision and order disposing of the
41 petition within six months after the final judgment.

42 (3) If a matter pending before the board would be
43 materially affected by an audit or other proceeding before
44 the Internal Revenue Service or by an audit or other
45 proceeding conducted by the Commonwealth or another state,
46 the board, upon the written request of the petitioner, may
47 defer consideration of the petition until such time as the
48 other audit or proceeding is completed. If consideration of
49 the petition is deferred, the board shall issue a decision
50 and order disposing of the petition within six months after
51 the audit or other proceeding is final.

1 * * *

2 (h) Publication of decisions.--

3 (1) The board shall publish each decision, along with
4 any dissenting opinion, which grants or denies in whole or in
5 part a petition for review or a petition for refund.

6 (2) Prior to publication of a decision, the board shall
7 edit the decision to redact the following:

8 (i) Information identified by the petitioner as and
9 that meets the definition of a trade secret or
10 confidential proprietary information as defined in
11 section 102 of the act of February 14, 2008 (P.L.6,
12 No.3), known as the Right-to-Know Law.

13 (ii) An individual's Social Security number, home
14 address, driver's license number, personal financial
15 information as defined in section 102 of the Right-to-
16 Know Law, home, cellular or personal telephone numbers,
17 personal e-mail addresses, employee number or other
18 confidential personal identification number and a record
19 identifying the name, home address or date of birth of a
20 child 17 years of age or younger.

21 (iii) Specific dollar amounts of tax.

22 (iv) Information pursuant to the Right-to-Know Law.

23 (3) The disclosure of any remaining information,
24 including the name of the taxpayer and the nature of the
25 taxpayer's business, shall be deemed not to violate any
26 provision of law to the contrary, including:

27 (i) Sections 274, 353 and 408.

28 (ii) 18 Pa.C.S. § 7326 (relating to disclosure of
29 confidential tax information).

30 (iii) Section 731 of the act of April 9, 1929
31 (P.L.343, No.176), known as The Fiscal Code.

32 (4) Decisions shall be indexed and published on a
33 publicly accessible Internet website maintained by the board.

34 (5) For summary claims, the board shall compile and
35 publish an annual report identifying the number of petitions
36 addressed as summary claims and the aggregate amount refunded
37 or reassessed.

38 (h.1) Corrective decisions and orders.--If a final
39 decision and order of the board contains a significant
40 administrative or calculation error, the board may issue a
41 corrective decision and order if both the petitioner and the
42 department agree in writing to permit the board to issue the
43 corrective decision and order. The corrective decision and
44 order must be issued within one year of the date of the
45 previous decision and order.

46 (h.2) Payments or credits.--A decision and order of the
47 board shall not address the application of payments or credits
48 to a petitioner's account unless the application is agreed to
49 in a compromise between the parties.

50 * * *

51 Section 16.1. The act is amended by adding an article to

1 read:

2 ARTICLE XXVIII
3 TOBACCO MASTER SETTLEMENT PAYMENT
4 REVENUE BONDS

5 Section 2801. Definitions.

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

9 "Account." The Tobacco Revenue Bond Debt Service Account
10 established in section 2805.

11 "Annual payment." A payment received by the Commonwealth
12 under section IX(c)(1) of the Master Settlement Agreement.

13 "Authority." The Commonwealth Financing Authority
14 established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth
15 Financing Authority).

16 "Finance." The issuance of revenue bonds utilizing a portion
17 of annual payments due to the Commonwealth under the Master
18 Settlement Agreement.

19 "Fund." The Tobacco Settlement Fund established in section
20 1712-A.1 of the act of April 9, 1929 (P.L.343, No.176), known as
21 The Fiscal Code.

22 "Master Settlement Agreement." The settlement agreement and
23 related documents entered into on November 23, 1998, by the
24 Commonwealth and leading United States tobacco product
25 manufacturers approved by the Court of Common Pleas,
26 Philadelphia County, on January 13, 1999.

27 "Office." The Governor's Office of the Budget.

28 "Secretary." The Secretary of the Budget of the
29 Commonwealth.

30 "Tobacco Settlement Act." The act of June 26, 2001 (P.L.755,
31 No.77), known as the Tobacco Settlement Act.

32 Section 2802. Bond issuance.

33 (a) Declaration of policy.--The General Assembly finds and
34 declares that:

35 (1) The Commonwealth experienced a revenue deficit of
36 \$1,106,700,308 in General Fund revenue collections for fiscal
37 year 2016-2017.

38 (2) The Commonwealth's General Fund continues to
39 experience a structural deficit where annual expenditures
40 exceed recurring revenue collections.

41 (3) The General Fund for fiscal year 2016-2017 revenue
42 shortfall in combination with the structural deficit,
43 increased expenditure needs and increased tax refunds
44 resulted in a significant negative ending balance in the
45 General Fund of approximately \$1,539,000,000 for fiscal year
46 2016-2017.

47 (4) A significant portion of the Commonwealth's General
48 Fund annual expenditures are dedicated to the protection of
49 the health, safety and general welfare of the people of this
50 Commonwealth and the furtherance of economic development and
51 efficiency within this Commonwealth by providing basic

1 services and facilities.

2 (5) The ability of the Commonwealth to provide for the
3 protection of the health, safety and general welfare of the
4 people of this Commonwealth and the provision of basic
5 services and facilities is jeopardized by the General Fund
6 for fiscal year 2016-2017 revenue deficit and the continuing
7 structural deficit.

8 (6) The provisions of 64 Pa.C.S. Ch. 15 (relating to
9 Commonwealth Financing Authority) are entitled to liberal
10 construction in order to effect legislative and public
11 purposes.

12 (7) One of the stated purposes of 64 Pa.C.S. Ch. 15 is
13 the protection of "the health, safety and general welfare of
14 the people of this Commonwealth and to further encourage
15 economic development and efficiency within this Commonwealth
16 by providing basic services and facilities," and "it is
17 necessary to provide additional or alternate means of
18 financing infrastructure facilities, transportation systems,
19 industrial parks, energy conversion facilities, facilities
20 for the furnishing of energy, water and telecommunications,
21 facilities for the collection or treatment of wastewater and
22 storm water, tourism, parking facilities, health care
23 facilities and other basic service and related facilities
24 which are conducive to economic activity within this
25 Commonwealth" under 64 Pa.C.S. § 1503(6) (relating to
26 findings and declaration of policy).

27 (8) The Tobacco Settlement Fund is a special revenue
28 fund established for the purpose of providing funding for
29 various Commonwealth programs.

30 (9) Utilizing a portion of annual payments received
31 through the Master Settlement Agreement and deposited in the
32 Tobacco Settlement Fund to leverage funding to offset the
33 effect of the fiscal year 2016-2017 revenue deficit and the
34 structural deficit is in the best interest of the
35 Commonwealth to provide General Fund budgetary relief
36 necessary for the protection of the health, safety and
37 general welfare of the people of this Commonwealth and the
38 provision of basic services and facilities.

39 (b) Authority.--Notwithstanding any other law, the authority
40 shall establish a program to issue bonds on behalf of the
41 Commonwealth, the proceeds of which shall be deposited in the
42 General Fund to provide General Fund budgetary relief necessary
43 for the protection of the health, safety and general welfare of
44 the people of this Commonwealth and the furtherance of economic
45 development and efficiency within this Commonwealth by providing
46 basic services and facilities.

47 (c) Debt or liability.--

48 (1) Bonds issued under this article shall not be a debt
49 or liability of the Commonwealth and shall not create or
50 constitute an indebtedness, liability or obligation of the
51 Commonwealth.

1 (2) Bond obligations shall be payable solely from
2 revenues or funds pledged or available for repayment as
3 authorized under this article.

4 (3) Each bond must contain on its face a statement that:

5 (i) The authority is obligated to pay the principal
6 of or interest on the bonds only from the revenues or
7 funds pledged or available for repayment as authorized
8 under this article.

9 (ii) The Commonwealth shall not be obligated to pay
10 the principal of or interest on the bonds.

11 (iii) The full faith and credit of the Commonwealth
12 is not pledged to the payment of the principal of or the
13 interest on the bonds.

14 Section 2803. Limitations on bond issuance.

15 (a) Maximum principal amount.--The authority may issue bonds
16 under this article in a maximum aggregate principal amount
17 sufficient to raise net proceeds of \$1,300,000,000, unless the
18 authority and the office determine this amount is insufficient
19 to carry out the purposes of this article, then the authority
20 shall adopt a resolution to petition the secretary to increase
21 the maximum aggregate principal amount. The secretary may
22 approve the petition and, if approved, shall publish notice of
23 the approval in the Pennsylvania Bulletin.

24 (b) Limitation.--The authority shall not issue any bonds
25 under this article, except refunding bonds, after June 30, 2019.
26 The authority, in consultation with the office, shall determine
27 the principal amounts of taxable bonds and tax-exempt bonds to
28 be issued during fiscal years 2017-2018 and 2018-2019.

29 (c) Refunding bonds.--Notwithstanding any other limitation,
30 the authority, at the request of the secretary, may issue
31 refunding bonds at any time while bonds issued under this
32 article are outstanding, provided that the final maturity of a
33 series of bonds being refunded shall not be extended.

34 (d) Interest.--Interest on bonds issued under this article
35 and refunding bonds authorized under this section shall be
36 payable at the time or times the authority determines in the
37 resolution authorizing the bonds and shall otherwise be subject
38 to the other provisions of the 64 Pa.C.S. Ch. 15 (relating to
39 Commonwealth Financing Authority). Interest may be capitalized
40 for a period not to exceed two years.

41 (e) Debt limitations.--The aggregate principal amount of
42 bonds specified in this section shall not be subject to the debt
43 limitations specified in 64 Pa.C.S. § 1543 (relating to
44 indebtedness).

45 (f) Term of bonds.--The term of the bonds issued under this
46 article may not exceed 30 years.

47 Section 2804. Finance pledge.

48 (a) Annual payments.--

49 (1) Annual payments received under the Master Settlement
50 Agreement are pledged by the Commonwealth in the amount
51 certified by the secretary under paragraph (2) for payment of

1 principal and interest for bonds issued by the authority
2 under this article.

3 (2) The secretary shall certify the amount of annual
4 payments necessary to be pledged for payment of principal and
5 interest for bonds issued by the authority under this article
6 prior to the issuance of bonds under this article. The
7 certification shall be published as a notice in the
8 Pennsylvania Bulletin.

9 (b) General revenues.--

10 (1) The Commonwealth may pledge from the general
11 revenues of the Commonwealth the second dollar of revenues
12 collected by the Commonwealth under Article II for the
13 payment of principal and interest for the bonds issued by the
14 authority under this article. A pledge made under this
15 subsection shall be subordinate to the pledge of Article II
16 revenues made in section 1753.1-E of the act of April 9, 1929
17 (P.L.343, No.176), known as The Fiscal Code.

18 (2) The secretary shall certify the annual amount of
19 general revenues to be pledged to supplement amounts pledged
20 under subsection (a) for payment of principal and interest
21 for bonds issued by the authority under this article prior to
22 the issuance of bonds under this article. The certification
23 shall be published as a notice in the Pennsylvania Bulletin.

24 (3) A pledge under this subsection may be primary
25 security or subordinate to amounts pledged in subsection (a).
26 Section 2805. Tobacco Revenue Bond Debt Service Account.

27 (a) Establishment.--There is established in the State
28 Treasury a restricted account in the General Fund to be known as
29 the Tobacco Revenue Bond Debt Service Account.

30 (b) Annual payments.--The amount of each annual payment
31 received under the Master Settlement Agreement and pledged by
32 the Commonwealth under section 2804 and certified by the
33 secretary for the payment of principal and interest for bonds
34 issued under this article shall be deposited in the account upon
35 receipt of each annual payment.

36 (c) General revenue.--General revenues pledged by the
37 Commonwealth in section 2804 and certified by the secretary for
38 the payment of principal and interest for bonds issued under
39 this article shall be deposited in amounts determined by the
40 secretary.

41 (d) Payments on bonds.--Payments of principal and interest
42 due on the bonds shall be made from the account.
43 Section 2806. Service agreement authorized.

44 (a) Authorization.--The authority and the office may enter
45 into an agreement or service agreement to effectuate the
46 purposes of this article, including an agreement to secure bonds
47 issued under this article, under which the secretary shall agree
48 to pay service charges to the authority in each fiscal year that
49 the bonds or refunding bonds are outstanding in amounts
50 sufficient to timely pay in full the debt service and any other
51 financing costs due on the bonds issued under this article.

1 (b) Payment of service charges.--The office's payment of any
2 service charges shall be subject to and dependent upon approval
3 by the authority and the appropriation of funds by the General
4 Assembly to the office for payment of any service charges.

5 (c) Amendment of agreement.--The service agreement may be
6 amended or supplemented by the authority and the office in
7 connection with the issuance of a series of bonds or refunding
8 bonds authorized in this section.

9 Section 2807. Deposit of bond proceeds.

10 The net proceeds of bonds, other than refunding bonds,
11 exclusive of costs of issuance, reserves and other financing
12 charges, shall be transferred by the authority to the State
13 Treasurer for deposit into the General Fund and shall be
14 available for expenditure as provided in this article upon
15 appropriation by the General Assembly.

16 Section 2808. Limitation on appropriations.

17 The amount of annual payments from the Master Settlement
18 Agreement that are pledged and certified by the secretary under
19 section 2804 for the payment of principal and interest for bonds
20 issued under this article shall not be subject to appropriation
21 under section 1713-A.1 of the act of April 9, 1929 (P.L.343,
22 No.176), known as The Fiscal Code.

23 Section 17. Section 3003.6 of the act is amended to read:

24 Section 3003.6. Timely Filing.--The following apply:

25 (1) A taxpayer shall be deemed to have timely filed a
26 petition for reassessment or any other protest relating to the
27 assessment of tax or any other matter relating to any tax
28 imposed by this act if the letter transmitting the petition is
29 received by the Department of Revenue or is postmarked by the
30 United States Postal Service on or prior to the final day on
31 which the petition is required to be filed.

32 (2) For purposes of filing a petition for refund, a petition
33 for reassessment or a petition for redetermination with either
34 the Department of Revenue or the Board of Finance and Revenue,
35 a letter postmarked by the United States Postal Service under
36 paragraph (2) shall include any date recorded or marked as
37 described under section 7502(f)(2) of the Internal Revenue Code
38 of 1986 (Public Law 99-514, 26 U.S.C. § 7502(f)(2)).

39 Section 18. If all or a part of the net loss deduction under
40 section 401(3)4(c) of the act has been deemed unconstitutional
41 as a result of a decision by the Pennsylvania Supreme Court, the
42 Secretary of Revenue shall submit a notice of the decision for
43 publication in the Pennsylvania Bulletin.

44 Section 19. Severability is as follows:

45 If section 2403-A or any provision of Article XXIV-B or
46 XXIV-C of the act, as added by this act, is held invalid, the
47 remaining provisions of Article XXIV-A of the act, as added
48 by this act, are void.

49 Section 20. This act shall apply as follows:

50 (1) The tax imposed under section 2202 of the act shall
51 apply to transactions occurring at least 30 days after the

1 effective date of this paragraph.

2 (2) The amendment or addition of the following
3 provisions of the acts shall apply to petitions for refunds,
4 petitions for reassessments and petitions for
5 redeterminations filed with the department on or after 60
6 days from the effective date of this section:

7 (i) Section 2702(a) and (a.1).

8 (ii) Section 2703(e), (e.1) and (f).

9 (iii) Section 2704(a), (b), (d.2), (d.3), (d.5),
10 (d.7), (e), (f), (h), (h.1) and (h.2).

11 Section 21. Repeals are as follows:

12 (1) The General Assembly declares that the repeal under
13 paragraph (2) is necessary to effectuate the addition of
14 Subarticle E of Article XVII-D.

15 (2) 12 Pa.C.S. Ch. 33 is repealed.

16 (3) The General Assembly declares that the repeal under
17 paragraph (4) is necessary to effectuate the addition of
18 Article XXIV of the act.

19 (4) The act of May 15, 1939 (P.L.134, No.65), referred
20 to as the Fireworks Law, is repealed.

21 (5) The General Assembly declares that the repeal under
22 paragraph (6) is necessary to effectuate the addition of
23 Article XXIV-A of the act.

24 (6) 58 Pa.C.S. § 2318 is repealed.

25 (7) The General Assembly declares that the repeal under
26 paragraph (8) is necessary to effectuate the amendment of
27 section 3003.6 of the act.

28 (8) Section 1102.1 of the act of April 9, 1929 (P.L.343,
29 No.176), known as The Fiscal Code, is repealed.

30 Section 22. This act shall take effect as follows:

31 (1) The following provisions shall take effect in 60
32 days:

33 (i) The addition of section 401(3)4(c.1) of the act.

34 (ii) The addition of Part IV-A of Article IV of the
35 act.

36 (iii) The addition of the definitions of
37 "deteriorated property" and "film production tax credit
38 district" in section 1711-D of the act.

39 (iv) The addition of section 1712-D(b.1).

40 (v) The addition of section 1716.2-D of the act.

41 (vi) The addition of Article XXIV of the act.

42 (vii) The addition of section 2403-A of the act.

43 (viii) The amendment of section 2702(a) and (a.1) of
44 the act.

45 (ix) The amendment or addition of section 2703(e),
46 (e.1) and (f) of the act.

47 (x) The amendment or addition of section 2704(a),
48 (b), (d.2), (d.3), (d.5), (d.7), (e), (f), (h), (h.1) and
49 (h.2) of the act.

50 (xi) Section 21(3) and (4) of this act.

51 (2) The following provisions shall take effect in 90

1 days:
2 (i) The addition of Article XXIV-C of the act.
3 (ii) (Reserved).
4 (3) The following provisions shall take effect in 120
5 days:
6 (i) The addition of Article XXIV-B of the act.
7 (ii) (Reserved).
8 (4) The following provisions shall take effect August 1,
9 2017, or immediately, whichever is later:
10 (i) The amendment or addition of section 1101(a)
11 introductory paragraph, (b) heading and introductory
12 paragraph, (b.2), (c), (c.1), (e), (f), (f.1), (j.1) and
13 (j.2) of the act.
14 (ii) The addition of Parts V and VI of Article XI of
15 the act.
16 (5) (Reserved).
17 (6) The following provisions shall take effect in 365
18 days:
19 (i) The amendment of the definition of "contracting
20 authority" in section 1902-B of the act.
21 (ii) The addition of section 1904.3-B of the act.
22 (7) The amendment or addition of section 401(3)4(c)(1)
23 (A)(VI), (VII) and (VIII) and (2)(B)(VII) and (VIII) of the
24 act shall take effect on the date of the publication of the
25 notice under section 18 of this act.
26 (8) The following provisions shall take effect
27 immediately:
28 (i) This section.
29 (ii) The remainder of this act.