

## AMENDMENTS TO HOUSE BILL NO. 542

Sponsor: REPRESENTATIVE SAYLOR

Printer's No. 2536

1 Amend Bill, page 2, lines 27 through 52; page 3, lines 1  
2 through 40; by striking out all of said lines on said pages and  
3 inserting  
4 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
5 act relating to tax reform and State taxation by codifying  
6 and enumerating certain subjects of taxation and imposing  
7 taxes thereon; providing procedures for the payment,  
8 collection, administration and enforcement thereof; providing  
9 for tax credits in certain cases; conferring powers and  
10 imposing duties upon the Department of Revenue, certain  
11 employers, fiduciaries, individuals, persons, corporations  
12 and other entities; prescribing crimes, offenses and  
13 penalties,"  
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 and 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, further providing for operational  
22 provisions, providing for definitions, further providing for  
23 requirement of withholding tax, providing for withholding tax  
24 requirement for non-employer payors, further providing for  
25 information statement, providing for information statement  
26 for non-employer payors and for information statement for  
27 payees, further providing for time for filing withholding  
28 returns, providing for time for filing payors' returns,  
29 further providing for payment of taxes withheld, providing  
30 for payment of taxes withheld for non-employer payors,  
31 further providing for liability for withheld taxes, providing  
32 for payor's liability for withheld taxes and for payor's  
33 failure to withhold, further providing for amount of  
34 withholding tax and for treatment of nonresident partners,  
35 members or shareholders, providing for withholding on income  
36 and for annual withholding statement and further providing  
37 for requirements concerning returns, notices, records and

statements and for additions, penalties and fees;  
in corporate net income tax, further providing for  
definitions and providing for qualified manufacturing  
innovation and reinvestment deduction;  
in realty transfer tax, further providing for definitions  
and for exempt parties;  
providing for tax credit eligibility;  
in entertainment production tax credit, further providing  
for definitions and for credit for qualified film production  
expenses, providing for film production tax credit districts  
and establishing the Entertainment Economic Enhancement  
Program;  
in city revitalization and improvement zones, further  
providing for certifications, for restrictions and for  
transfer of property;  
in neighborhood improvement zones, providing for transfer  
of property;  
in keystone opportunity zones, keystone opportunity  
expansion zones and keystone opportunity improvement zones,  
further providing for additional keystone opportunity zones;  
in inheritance tax, further providing for timely mailing  
treated as timely filing and payment;  
in Public Transportation Assistance Fund, further  
providing for fund;  
providing for fireworks;  
in procedure and administration, further providing for  
petition for reassessment and for review by board;  
providing for tobacco master settlement payment revenue  
bonds and sale of revenue;  
making related repeals; and  
making editorial changes.

Amend Bill, page 104, lines 8 through 30; pages 105 through  
187, lines 1 through 30; page 188, lines 1 through 28; by  
striking out all of said lines on said pages and inserting

Section 1. Section 201(m) of the act of March 4, 1971  
(P.L.6, No.2), known as the Tax Reform Code of 1971, amended  
July 13, 2016 (P.L.526, No.84), is amended to read:

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

\* \* \*

(m) "Tangible personal property."

(1) Corporeal personal property including, but not limited  
to, goods, wares, merchandise, steam and natural and  
manufactured and bottled gas for non-residential use,  
electricity for non-residential use, prepaid telecommunications,  
premium cable or premium video programming service, spirituous

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

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

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

35 \* \* \*

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

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

44 \* \* \*

45 Section 3. Section 204(13) of the act, amended July 13, 2016  
46 (P.L.526, No.84), is amended to read:

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

49 \* \* \*

50 (13) The sale at retail, or use of wrapping paper, wrapping  
51 twine, bags, cartons, tape, rope, labels, nonreturnable

containers [and], all other wrapping supplies and kegs used to contain malt or brewed beverages, when such use is incidental to the delivery of any personal property, except that any charge for wrapping or packaging shall be subject to tax at the rate imposed by section 202, unless the property wrapped or packaged will be resold by the purchaser of the wrapping or packaging service. As used in this paragraph, the term "cartons" includes corrugated boxes used by a person engaged in the manufacture of snack food products to deliver the manufactured product, whether or not the boxes are returnable for potential reuse.

\* \* \*

Section 4. Article II of the act is amended by adding a part to read:

#### PART V-A

##### MARKETPLACE SALES

Section 213. Definitions.--For the purposes of this part V-A only, the following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

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

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

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

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

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

(d) "Marketplace seller." A person that has an agreement with a marketplace facilitator pursuant to which the marketplace facilitator facilitates sales for the person.

(e) "Notice and reporting requirements." The notice requirements under section 213.2 and the reporting requirements under sections 213.3 and 213.4.

(f) "Referral." The transfer by a referrer of a potential purchaser to a person that advertises or lists products for sale on the referrer's platform.

1 (g) "Referrer." A person, other than a person engaging in  
2 the business of printing or publishing a newspaper, that,  
3 pursuant to an agreement or arrangement with a marketplace  
4 seller or remote seller, does the following:

5 (1) Agrees to list or advertise for sale at retail one or  
6 more products of the marketplace seller or remote seller in a  
7 physical or electronic medium.

8 (2) Receives consideration from the marketplace seller or  
9 remote seller from the sale offered in the listing or  
10 advertisement.

11 (3) Transfers by telecommunications, internet link or other  
12 means, a purchaser to a marketplace seller, remote seller or  
13 affiliated person to complete a sale.

14 (4) Does not collect a receipt from the purchaser for the  
15 sale.

16 The term does not include a person that:

17 (1) provides internet advertising services; and

18 (2) does not provide the marketplace seller's or remote  
19 seller's shipping terms or advertise whether a marketplace  
20 seller or remote seller collects a sales or use tax.

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

22 (h) "Remote seller." A person, other than a marketplace  
23 facilitator, marketplace seller or referrer, that does not  
24 maintain a place of business in this Commonwealth that, through  
25 a forum, sells tangible personal property at retail, the sale or  
26 use of which is subject to the tax imposed by this article. The  
27 term does not include an employee who in the ordinary scope of  
28 employment renders services to his employer in exchange for  
29 wages and salaries.

30 Section 213.1. Election.--(a) Subject to the provisions of  
31 subsections (c) and (d), on or before March 1, 2018, and on or  
32 before June 1 of each calendar year thereafter, beginning June  
33 1, 2019, a remote seller, a marketplace facilitator or a  
34 referrer that had aggregate sales at retail of tangible personal  
35 property subject to tax under this article within this  
36 Commonwealth or delivered to locations within this Commonwealth  
37 worth at least ten thousand dollars (\$10,000) during the  
38 immediately preceding twelve calendar month period shall file an  
39 election with the department to collect and remit the tax  
40 imposed under section 202 or to comply with the notice and  
41 reporting requirements. The election shall be made on a form and  
42 in a manner prescribed by the department and, except as provided  
43 in subsection (e), shall apply to the next succeeding fiscal  
44 year.

45 (b) A remote seller, a marketplace facilitator or a referrer  
46 that makes an election under subsection (a) to collect and remit  
47 the tax imposed under section 202 shall obtain a license under  
48 Part IV of this article.

49 (c) The requirement by a marketplace facilitator to make an  
50 election under subsection (a) shall only apply to the following:

51 (1) sales at retail through the marketplace facilitator's

1 forum made by or on behalf of a marketplace seller that does not  
2 maintain a place of business in this Commonwealth; and

3 (2) sales at retail made by a marketplace facilitator on its  
4 own behalf if the marketplace facilitator does not maintain a  
5 place of business in this Commonwealth.

6 (d) The requirement by a referrer to make an election under  
7 subsection (a) shall only apply to sales at retail:

8 (1) directly resulting from a referral of a purchaser to a  
9 marketplace seller that does not maintain a place of business in  
10 this Commonwealth;

11 (2) directly resulting from a referral of a purchaser to a  
12 remote seller; and

13 (3) of the referrer's own products if the referrer does not  
14 maintain a place of business in this Commonwealth.

15 A referrer may make an election under subsection (a) for the  
16 sales described in paragraphs (1) and (2) that is different from  
17 the election made for the sales described in paragraph (3).

18 (e) An election made on or before March 1, 2018, shall be in  
19 effect for the balance of the 2017-2018 fiscal year and for the  
20 2018-2019 fiscal year. A remote seller, marketplace facilitator  
21 or referrer may change an election to comply with the notice and  
22 reporting requirements to an election to collect and remit the  
23 tax imposed under section 202 at any time during a fiscal year  
24 by filing a new election with the department and obtaining a  
25 license under Part IV of this article. The new election shall be  
26 effective thirty days after the filing and shall be effective  
27 for the balance of the fiscal year in which the new election was  
28 filed and for the next succeeding fiscal year.

29 (f) A remote seller, marketplace facilitator or referrer who  
30 does not submit an election under subsection (a) or a new  
31 election under subsection (e) shall be deemed to have elected to  
32 comply with the notice and reporting requirements.

33 (g) In addition to records that may be required to be  
34 maintained under other applicable provisions of this article by  
35 a remote seller, marketplace facilitator or referrer, a remote  
36 seller, marketplace facilitator or referrer subject to this part  
37 shall also be subject to section 271 relating to the keeping of  
38 records and section 272 relating to the examination of records  
39 by the department and agents and employees of the department.

40 Section 213.2. Notice requirements.--(a) A remote seller,  
41 marketplace facilitator or referrer required to make an election  
42 under section 213.1(a) that does not elect to collect and remit  
43 the tax imposed by section 202 shall comply with the applicable  
44 notice requirements of this section.

45 (b) A remote seller or marketplace facilitator subject to  
46 the requirements of this section shall:

47 (1) Post a conspicuous notice on its forum that informs  
48 purchasers intending to purchase tangible personal property for  
49 delivery to a location within this Commonwealth that includes  
50 all of the following:

51 (i) sales or use tax may be due in connection with the

purchase and delivery of the tangible personal property;  
(ii) the Commonwealth requires the purchaser to file a  
return if use tax is due in connection with the purchase and  
delivery; and  
(iii) the notice is required by this section.  
(2) Provide a written notice to each purchaser at the time  
of each sale at retail that includes all of the following:  
(i) a statement that sales tax is not being collected in  
connection with the purchase;  
(ii) a statement that the purchaser may be required to remit  
use tax directly to the department; and  
(iii) instructions for obtaining additional information from  
the department regarding whether and how to remit use tax to the  
department.  
(c) The notice required by subsection (b) (2) must be  
prominently displayed on all invoices and order forms and on  
each sales receipt or similar document, whether in paper or  
electronic form, provided to the purchaser. No statement that  
sales or use tax is not imposed on a transaction may be made by  
a remote seller or marketplace facilitator unless the  
transaction is exempt from sales and use tax pursuant to this  
article or other applicable Commonwealth law.  
(d) A referrer subject to the requirements of this section  
shall post a conspicuous notice on its platform that informs  
purchasers intending to purchase tangible personal property for  
delivery to a location within this Commonwealth that includes  
all of the following:  
(1) Sales or use tax may be due in connection with the  
purchase and delivery.  
(2) The person to which the purchaser is being referred may  
or may not collect and remit sales tax to the department in  
connection with the transaction.  
(3) The Commonwealth requires the purchaser to file a return  
if use tax is due in connection with the purchase and delivery  
and not collected by the person.  
(4) The notice is required by this section.  
(5) Instructions for obtaining additional information from  
the department regarding whether and how to remit sales or use  
tax to the department.  
(6) If the person to whom the purchaser is being referred  
does not collect sales tax on a subsequent purchase by the  
purchaser, the person may be required to provide information to  
the purchaser and the department about the purchaser's potential  
sales or use tax liability.  
(e) The notice required under subsection (d) must be  
prominently displayed and may include pop-up boxes or  
notification by other means that appears when the referrer  
transfers a purchaser to another person to complete the sale.  
Section 213.3. Reports to purchasers and marketplace  
sellers.--(a) A remote seller or marketplace facilitator  
required to make an election under section 213.1(a) that does

1 not elect to collect and remit the tax imposed by section 202  
2 shall, no later than January 31 of each year, provide a written  
3 report to each purchaser required to receive the notice under  
4 section 213.2(b)(2) during the immediately preceding calendar  
5 year that includes all of the following:

6 (1) A statement that the remote seller or marketplace  
7 facilitator did not collect sales tax in connection with the  
8 purchaser's transactions with the remote seller or marketplace  
9 facilitator and that the purchaser may be required to remit use  
10 tax to the department.

11 (2) A list, by date, indicating the type and purchase price  
12 of each product purchased or leased by the purchaser from the  
13 remote seller or marketplace facilitator and delivered to a  
14 location within this Commonwealth.

15 (3) Instructions for obtaining additional information from  
16 the department regarding whether and how to remit use tax to the  
17 department.

18 (4) A statement that the remote seller or marketplace  
19 facilitator is required to submit a report to the department  
20 under section 213.4 that includes the name of the purchaser and  
21 the aggregate dollar amount of the purchaser's purchases from  
22 the remote seller or marketplace facilitator.

23 (5) Such additional information as the department may  
24 reasonably require.

25 (b) The department shall prescribe the form of the report  
26 required under subsection (a) and shall make the form available  
27 on its publicly accessible Internet website.

28 (c) The report required under subsection (a) shall be mailed  
29 by first-class mail in an envelope prominently marked with words  
30 indicating that important tax information is enclosed to the  
31 purchaser's billing address, if known, or, if unknown, to the  
32 purchaser's shipping address. If the purchaser's billing and  
33 shipping address are unknown, the report shall be sent  
34 electronically to the purchaser's last known e-mail address with  
35 a subject heading indicating that important tax information is  
36 being provided.

37 (d) A referrer required to make an election under section  
38 213.1(a) that does not elect to collect and remit the tax  
39 imposed by section 202 shall, no later than January 31 of each  
40 year, provide a written notice to each remote seller to whom the  
41 referrer transferred a potential purchaser located in this  
42 Commonwealth during the immediately preceding calendar year that  
43 includes all of the following:

44 (1) A statement that a sales or use tax may be imposed by  
45 the Commonwealth on the transaction.

46 (2) A statement that the remote seller may be required to  
47 make the election required by section 213.1(a).

48 (3) Instructions for obtaining additional information  
49 regarding sales and use tax from the department.

50 Section 213.4. Reports to department.--(a) A remote seller  
51 or marketplace facilitator required to make an election under



1 section 213.1(a) that does not elect to collect and remit the  
2 tax imposed by section 202 shall, no later than January 31 of  
3 each year, submit a report to the department. The report shall  
4 include, with respect to each purchaser required to receive the  
5 notice under section 213.2(b)(2) during the immediately  
6 preceding calendar year, the following:

7 (1) The purchaser's name.

8 (2) The purchaser's billing address and, if different, the  
9 purchaser's last known mailing address.

10 (3) The address within this Commonwealth to which products  
11 were delivered to the purchaser.

12 (4) The aggregate dollar amount of the purchaser's purchases  
13 from the remote seller or marketplace facilitator.

14 (5) The name and address of the remote seller, marketplace  
15 facilitator or marketplace seller that made the sales to the  
16 purchaser.

17 (b) A referrer required to make an election under section  
18 213.1(a) that does not elect to collect and remit the tax  
19 imposed by section 202 shall, no later than January 31 of each  
20 year, submit a report to the department. The report shall  
21 include a list of persons who received the notice required under  
22 section 213.3(d).

23 (c) The department shall prescribe the forms of the reports  
24 required under this section and shall make them available on its  
25 publicly accessible Internet website. The reports shall be  
26 submitted electronically in such manner as the department shall  
27 require.

28 (d) A report required under this section shall be submitted  
29 by an officer of the remote seller, marketplace facilitator or  
30 referrer and shall include a statement, made under penalty of  
31 perjury, by the officer that the remote seller, marketplace  
32 facilitator or referrer made reasonable efforts to comply with  
33 the notice and reporting requirements of this part.

34 Section 213.5. Liability and penalties.--(a) The department  
35 shall assess a penalty in the amount of twenty thousand dollars  
36 (\$20,000) or twenty per cent of total sales in Pennsylvania  
37 during the previous twelve months, whichever is less, against a  
38 remote seller, marketplace facilitator or referrer that makes an  
39 election under section 213.1(a) to comply with the notice and  
40 reporting requirements, or is deemed to have made such election  
41 under section 213.2(f), and fails to comply with the  
42 requirements under section 213.3 or 213.4. The penalty shall be  
43 assessed separately for each violation, but may only be assessed  
44 once in a calendar year.

45 (b) A remote seller, marketplace facilitator or referrer  
46 that makes an election under section 213.1(a) to collect and  
47 remit the tax imposed under section 202 shall be subject to all  
48 of the provisions of this article with respect to the collection  
49 and remittance of such tax and shall be subject to all of the  
50 penalties, interest and additions for failing to comply with the  
51 provisions of this article, except as provided in this section.

1 (c) For a period of five years after the effective date of  
2 this section, the department may abate or reduce any penalty or  
3 addition imposed under subsection (b) due to hardship or for  
4 good cause shown.

5 (d) A marketplace facilitator or referrer is relieved of  
6 liability under subsection (b) if the marketplace facilitator or  
7 referrer can show to the satisfaction of the department that the  
8 failure to collect the correct amount of tax was due to  
9 incorrect information given to the marketplace facilitator or  
10 referrer by a marketplace seller or remote seller.

11 (e) A class action may not be brought against a marketplace  
12 facilitator or referrer on behalf of purchasers arising from or  
13 in any way related to an overpayment of sales or use tax  
14 collected by the marketplace facilitator or referrer, regardless  
15 of whether such action is characterized as a tax refund claim.  
16 Nothing in this subsection shall affect a purchaser's right to  
17 seek a refund from the department under other provisions of this  
18 article.

19 Section 213.6. Application.--Nothing in this section affects  
20 the obligations of a vendor to register with the department and  
21 to collect and remit sales tax or use tax.

22 Section 5. Section 278 of the act is amended by adding  
23 subsections to read:

24 Section 278. Remote Sales Reports.--\* \* \*

25 (c) If Federal legislation relating to remote sellers has  
26 not been enacted by December 31, 2018, the Independent Fiscal  
27 Office, in conjunction with the department, shall conduct a  
28 study assessing the legal implications and fiscal impact of  
29 mandating notice requirements for remote sellers. By April 1,  
30 2019, results of the study, if a study is produced, shall be  
31 provided to the chairman and minority chairman of the  
32 Appropriations Committee of the Senate, the chairman and  
33 minority chairman of the Finance Committee of the Senate, the  
34 chairman and minority chairman of the Appropriations Committee  
35 of the House of Representatives and the chairman and minority  
36 chairman of the Finance Committee of the House of  
37 Representatives.

38 (d) As used in this section, the term "remote seller" shall  
39 have the same meaning as defined in section 213.

40 Section 6.

41 (Reserved).

42 Section 7. The act is amended by adding a section to read:

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

46 (1) Undistributed earnings on an account.

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

50 (b) The following shall apply:

51 (1) An amount contributed to an account shall be deductible

1 from the taxable income of the contributor under this article  
2 for the tax year the contribution was made.

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

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

9 (4) The department and the Treasury Department shall  
10 cooperate in verifying account information relating to  
11 contributions to an account itemized by a contributor and the  
12 contributor's specific contributions.

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

16 (d) A change in designated beneficiaries under section  
17 529A(c) of the Internal Revenue Code shall not constitute a  
18 taxable event.

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

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

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

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

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

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

32 "Pennsylvania ABLE Savings Program." The program established  
33 under the Pennsylvania ABLE Act.

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

36 Section 8. Section 312 of the act, amended July 13, 2016  
37 (P.L.526, No.84), is amended to read:

38 Section 312. Tax Withheld.--The amount withheld under  
39 section [316] 316.1 shall be allowed to the taxpayer from whose  
40 income the tax was withheld as a credit against the tax imposed  
41 on him by this article.

42 Section 9. Section 315.6 of the act is repealed:

43 [Section 315.6. Contribution for Korea/Vietnam Memorial  
44 National Education Center.--(a) For tax years 1997, 1998, 1999,  
45 2000, 2001, 2002, 2003 and 2004, the department shall provide a  
46 space on the face of the Pennsylvania individual income tax  
47 return form whereby an individual may voluntarily designate a  
48 contribution of any amount from the individual's tax refund to  
49 the Korea/Vietnam Memorial National Education Center.

50 (b) The amount designated by an individual on the  
51 Pennsylvania individual income tax return form shall be deducted

1 from the tax refund to which the individual is entitled and  
2 shall not constitute a charge against the income tax revenues  
3 due the Commonwealth.

4 (c) The department shall determine annually the total amount  
5 designated by individual taxpayers under this section and shall  
6 report the amount to the State Treasurer, who shall prepare the  
7 appropriate documentation and transfer the designated amount  
8 from the General Fund to the Korea/Vietnam Memorial National  
9 Education Center.

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

17 (e) On or before March 31 of each year, the Korea/Vietnam  
18 Memorial National Education Center shall submit a report  
19 detailing contributions received and activities undertaken  
20 during the prior calendar year to the Military and Veterans'  
21 Affairs Committee of the Senate and the Veterans Affairs and  
22 Emergency Preparedness Committee of the House of  
23 Representatives.

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

25 Section 10. Section 315.9(b.1) and (c) of the act are  
26 amended to read:

27 Section 315.9. Operational Provisions.--

28 \* \* \*

29 (b.1) Notwithstanding subsection (b), the checkoffs  
30 established in sections 315.2 [and], 315.3, 315.4, 315.7, 315.8,  
31 315.10 and 315.11 shall not expire.

32 [(c) Sections 315.3, 315.4 and 315.8 shall expire January 1,  
33 2018.]

34 Section 11. The act is amended by adding a section to read:

35 Section 316. Definitions.--The following words, terms and  
36 phrases, when used in this part, shall have the meanings  
37 ascribed to them in this section, except where the context  
38 clearly indicates a different meaning:

39 "Payee." The person receiving the payments subject to  
40 withholding under this part.

41 "Payments." The term does not include a partner or  
42 shareholder's distributive share of income from a partnership or  
43 Pennsylvania S corporation.

44 "Payor." The person required to withhold under this part.

45 Section 12. Section 316 of the act, amended July 13, 2016  
46 (P.L.526, No.84), is renumbered to read:

47 Section [316] 316.1. Requirement of Withholding Tax.--(a)  
48 Every employer maintaining an office or transacting business  
49 within this Commonwealth and making payment of compensation (i)  
50 to a resident individual, or (ii) to a nonresident individual  
51 taxpayer performing services on behalf of such employer within

1 this Commonwealth, shall deduct and withhold from such  
2 compensation for each payroll period a tax computed in such  
3 manner as to result, so far as practicable, in withholding from  
4 the employee's compensation during each calendar year an amount  
5 substantially equivalent to the tax reasonably estimated to be  
6 due for such year with respect to such compensation. The method  
7 of determining the amount to be withheld shall be prescribed by  
8 regulations of the department.

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

23 Section 13. The act is amended by adding a section to read:

24 Section 316.2. Withholding Tax Requirement for Non-Employer  
25 Payors.--(a) To the extent not already required to withhold tax  
26 on payments under section 316.1, a person that:

27 (1) makes payments of income from sources within this  
28 Commonwealth described in section 303(a)(1) or (2) to either a  
29 nonresident individual or an entity that is disregarded under  
30 section 307.21 that has a nonresident member; and

31 (2) is required under section 335(f)(1) to file a copy of  
32 form 1099-MISC with the department regarding the payments;  
33 shall deduct and withhold from the payments an amount equal to  
34 the net amount of the payments multiplied by the tax rate  
35 specified under section 302(b).

36 (b) Withholding of tax by payors is optional and at the  
37 discretion of the payor with respect to payees who receive  
38 payments of less than \$5,000 annually from the payor.

39 (c) This section shall not apply to payments made by a payor  
40 to a payee if the payor is:

41 (1) The United States or an agency or instrumentality  
42 thereof; or

43 (2) The Commonwealth or an agency, instrumentality or  
44 political subdivision thereof.

45 (d) The department may prescribe regulations to implement and  
46 clarify the withholding requirement set forth in this section.

47 Section 14. Section 317 of the act, amended July 13, 2016  
48 (P.L.526, No.84), is amended to read:

49 Section 317. Information Statement.--(a) Every employer  
50 required to deduct and withhold tax under [this article] section  
51 316.1(a) shall furnish to each such employee to whom the employer

1 has paid compensation during the calendar year a written  
2 statement in such manner and in such form as may be prescribed  
3 by the department showing the amount of compensation paid by the  
4 employer to the employee, the amount deducted and withheld as  
5 tax, pursuant to [this article] section 316.1(a), and such other  
6 information as the department shall prescribe. Each statement  
7 required by this section for a calendar year shall be furnished  
8 to the employee on or before January 31 of the year succeeding  
9 such calendar year. If the employee's employment is terminated  
10 before the close of such calendar year, the employer, at his  
11 option, shall furnish the statement to the employee at any time  
12 after the termination but no later than January 31 of the year  
13 succeeding such calendar year. However, if an employee whose  
14 employment is terminated before the close of such calendar year  
15 requests the employer in writing to furnish him the statement at  
16 an earlier time, and, if there is no reasonable expectation on  
17 the part of both employer and employee of further employment  
18 during the calendar year, then the employer shall furnish the  
19 statement to the employee on or before the later of the 30th day  
20 after the day of the request or the 30th day after the day on  
21 which the last payment of wages is made.

22 (b) Every person required to deduct and withhold tax under  
23 section [316(b)] 316.1(b) shall report the prize and the amount  
24 of withholding to the taxpayer on Internal Revenue Service Form  
25 W-2G, or similar form used for reporting Federal income tax  
26 withholding from the prize.

27 Section 15. The act is amended by adding sections to read:

28 Section 317.1. Information Statement for Non-Employer  
29 Payors.--Every payor required to deduct and withhold tax under  
30 section 316.2 shall furnish to a payee to whom the payor has  
31 paid income from sources within this Commonwealth during the  
32 calendar year a copy of form 1099-MISC required under section  
33 335(f)(1). The copy of form 1099-MISC required by this section  
34 for each calendar year shall be forwarded to the payee on or  
35 before March 1 of the year succeeding the calendar year.

36 Section 317.2. Information Statement for Payees.--Every  
37 payee receiving a copy of form 1099-MISC from a payor under  
38 section 317.1 shall file a duplicate of such information return  
39 with the payee's State income tax return.

40 Section 16. Section 318 of the act, amended July 13, 2016  
41 (P.L.526, No.84), is amended to read:

42 Section 318. Time for Filing Withholding Returns.--(a)  
43 Every employer required to deduct and withhold tax under [this  
44 article] section 316.1(a) shall file a quarterly withholding  
45 return on or before the last day of April, July, October and  
46 January for the three months ending the last day of March, June,  
47 September and December. Such quarterly returns shall be filed  
48 with the department at its main office or at any branch office  
49 which it may designate for filing returns.

50 (b) Every person required to deduct and withhold tax under  
51 section [316(b)] 316.1(b) shall file a withholding tax return at

1 the same time the person is required to file its annual return  
2 of withheld Federal income tax (IRS Form 945) from nonpayroll  
3 payments. The return shall be filed with the department.

4 Section 17. The act is amended by adding a section to read:

5 Section 318.1. Time for Filing Payors' Returns.--Every payor  
6 required to deduct and withhold tax under section 316.2 shall  
7 file a quarterly withholding return on or before the last day of  
8 April, July, October and January for each three month period  
9 ending the last day of March, June, September and December. The  
10 quarterly returns shall be filed with the department in the  
11 manner prescribed by regulation.

12 Section 18. Section 319 of the act, amended July 13, 2016  
13 (P.L.526, No.84), is amended to read:

14 Section 319. Payment of Taxes Withheld.--(a) Every employer  
15 withholding tax under [this article] section 316.1(a) shall pay  
16 over to the department or to a depository designated by it the  
17 tax required to be deducted and withheld under [this article]  
18 section 316.1(a).

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

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

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

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

45 Notwithstanding anything in this subsection to the contrary,  
46 whenever any employer fails to deduct or truthfully account for  
47 or pay over the tax withheld or file returns as prescribed by  
48 this article, the department may serve a notice on such employer  
49 requiring him to withhold taxes which are required to be  
50 deducted under [this article] section 316.1(a) and deposit such  
51 taxes in a bank approved by the department in a separate account

1 in trust for and payable to the department, and to keep the  
2 amount of such tax in such account until payment over to the  
3 department. Such notice shall remain in effect until a notice of  
4 cancellation is served on the employer by the department.

5 (b) Every person deducting and withholding tax under section  
6 [316(b)] 316.1(b) shall remit the tax to the department on the  
7 same frequency that the person is required to remit Federal  
8 income tax withheld from nonpayroll payments.

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

10 Section 319.1. Payment of Taxes Withheld for Non-Employer  
11 Payors.--Every payor withholding tax under section 316.2 shall  
12 pay over to the department or to a depository designated by the  
13 department the tax required to be deducted and withheld under  
14 section 316.2. The time for paying over the withheld tax shall  
15 be as set forth in section 319(1), (2), (3) and (4).

16 Section 20. Section 320 of the act, amended July 13, 2016  
17 (P.L.526, No.84), is amended to read:

18 Section 320. Liability for Withheld Taxes.--Every person  
19 required to deduct and withhold tax under [this part] section  
20 316.1 is hereby made liable for such tax. For purposes of  
21 assessment and collection, any amount required to be withheld  
22 and paid over to the department and any additions to tax  
23 penalties and interest with respect thereto, shall be considered  
24 the tax of the person. All taxes deducted and withheld pursuant  
25 to [this part] section 316.1 or under color of [this part]  
26 section 316.1 shall constitute a trust fund for the Commonwealth  
27 and shall be enforceable against such person, his representative  
28 or any other person receiving any part of such fund.

29 Section 21. The act is amended by adding sections to read:

30 Section 320.1. Payor's Liability for Withheld Taxes.--Every  
31 payor required to deduct and withhold tax under section 316.2 is  
32 hereby made liable for such tax. For purposes of assessment and  
33 collection, any amount required to be withheld and paid over to  
34 the department and any additions to tax, penalties, and interest  
35 with respect thereto shall be considered the tax of the payor.  
36 All taxes deducted and withheld from payees pursuant to section  
37 316.2 or under color of section 316.2 shall constitute a trust  
38 fund for the Commonwealth and shall be enforceable against such  
39 payor, his representative or any other person receiving any part  
40 of such fund.

41 Section 321.2. Payor's Failure to Withhold.--If a payor  
42 fails to deduct and withhold tax as prescribed under section  
43 316.2 and thereafter the tax which may be credited is paid, the  
44 tax which was required to be deducted and withheld shall not be  
45 collected from the payor, but the payor shall not be relieved of  
46 the liability for any penalty, interest or additions to the tax  
47 imposed with respect to such failure to deduct and withhold.

48 Section 22. The heading of Part VII-A of Article III of the  
49 act is amended to read:

50 PART VII-A

51 WITHHOLDING TAX ON [SHARES ON] INCOME FROM SOURCES



1                   WITHIN THIS COMMONWEALTH

2       Section 23. Section 324.1 of the act is amended by adding a  
3 subsection to read:

4       Section 324.1. Amount of Withholding Tax.--\* \* \*

5       (c) There shall not be taken into account any share of  
6 income of nonresident partner, member or shareholder from  
7 sources within this Commonwealth to the extent that the amount  
8 was subject to withholding under section 324.4 and to the extent  
9 withholding actually occurred under section 324.4 by the time  
10 withholding is required to be made by the partnership,  
11 association or Pennsylvania S corporation under section 324.

12       Section 24. Section 324.2 of the act is amended to read:

13       Section 324.2. Treatment of Nonresident Partners, Members or  
14 Shareholders.--(a) Each nonresident partner, member,  
15 shareholder or holder of a beneficial interest shall be allowed  
16 a credit for such partner's, member's, shareholder's or holder  
17 of a beneficial interest's share of the withholding tax paid by  
18 the partnership, association or Pennsylvania S corporation. Such  
19 credit shall be allowed for the partner's, member's,  
20 shareholder's or holder of a beneficial interest's taxable year  
21 in which, or with which, the partnership, association or  
22 Pennsylvania S corporation taxable year (for which such tax was  
23 paid) ends.

24       (b) Each nonresident lessor shall be allowed a credit for  
25 the nonresident lessor's share of the withholding tax paid by  
26 the lessee under section 324.4.

27       (c) The credits under this section shall be allowed for the  
28 nonresident lessor's taxable year in which the lessee withheld  
29 tax.

30       Section 25. The act is amended by adding sections to read:

31       Section 324.4. Withholding on Income.--(a) Every lessee of  
32 Pennsylvania real estate who makes a lease payment in the course  
33 of a trade or business to a nonresident lessor shall withhold  
34 Pennsylvania personal income tax on rental payments to such  
35 nonresident lessor.

36       (b) Every lessee shall withhold from each payment made to a  
37 lessor an amount equal to the net amount payable to the lessor  
38 multiplied by the tax rate specified under section 302(b).

39       (c) (Reserved).

40       (d) The withholding of tax under this section is optional  
41 and at the discretion of the lessee with respect to payments to  
42 a lessor who receives less than \$5,000 annually on a lease.

43       (e) For purposes of this section, the term or phrase:

44       (1) "Lessor" shall include an individual, estate, or trust.

45       (2) "Lease payment" shall include, but not be limited to  
46 rents, royalties, bonus payments, damage payments, delay rents  
47 and other payments made pursuant to a lease, other than  
48 compensation derived from intangible property having a taxable  
49 or business situs in this Commonwealth. Classification as a  
50 "lease payment" under this section is solely for the purposes of  
51 establishing withholding requirements and shall not be relevant

1 for a determination as to the proper income classification of  
2 any such lease payment.

3 (3) "In the course of a trade or business" shall include any  
4 person or business entity making lease payments to a nonresident  
5 or agent of a nonresident who collects rent or lease payments on  
6 behalf of a nonresident owner, other than a tenant of  
7 residential property.

8 Section 324.5. Annual Withholding Statement.--(a) Every  
9 lessee shall furnish to each lessor an annual statement at such  
10 time and in such manner as may be prescribed by the department  
11 showing the total payments made by the lessee to the lessor  
12 during the preceding taxable year and showing the amount of the  
13 tax deducted and withheld from the payments under section 324.4.

14 (b) Every lessee shall file with the department an annual  
15 statement at such time and in such manner as may be prescribed  
16 by the department showing the total payments made to each lessor  
17 subject to withholding during the preceding taxable year or any  
18 portion of the preceding taxable year and the total amount of  
19 tax deducted and withheld under section 324.4.

20 (c) Every lessor shall file a duplicate of the annual  
21 statement furnished by the lessee under this section with the  
22 lessor's State income tax return.

23 Section 26. Sections 335(f) and 352(f), (h) and (j) of the  
24 act are amended to read:

25 Section 335. Requirements Concerning Returns, Notices,  
26 Records and Statements.--\* \* \*

27 (f) The following apply:

28 (1) Any person who:

29 (i) makes payments of Pennsylvania source income [from  
30 sources within this Commonwealth] that fall within any of the  
31 eight classes of income enumerated in section 303(a);

32 (ii) makes such payments [of nonemployee compensation or  
33 payments under an oil and gas lease under subparagraph (i) to a  
34 resident or nonresident] to an individual, an entity treated as  
35 a partnership for tax purposes or a single member limited  
36 liability company; and

37 (iii) is required to make a form 1099-MISC return to the  
38 Secretary of the Treasury of the United States with respect to  
39 [the] such payments, shall file a copy of such form 1099-MISC  
40 with the department and send a copy of such form 1099-MISC to  
41 the payee by [the Federal filing deadline] March 1 each year[.]  
42 or, if filed electronically, by March 31 of each year. If the  
43 form 1099-MISC filed by a payor with the Secretary of the  
44 Treasury of the United States is not completed in such a manner  
45 that State income and State tax withheld information, currently  
46 boxes 16 through 18 on Federal form 1099-MISC, is reflected  
47 thereon, the payor shall update the copies of form 1099-MISC to  
48 be provided pursuant to this section to reflect such information  
49 prior to filing it with the department and sending it to the  
50 payee.

51 (2) If the payor is required to perform electronic filing

1 for Pennsylvania employer withholding purposes, the form 1099-  
2 MISC shall be filed electronically with the department.

3 (3) As used in this subsection, the following words and  
4 phrases shall have the meanings given to them in this paragraph  
5 unless the context clearly indicates otherwise:

6 "Payee." The person receiving the payments subject to  
7 withholding under this subsection.

8 "Payments." The term does not include a partner or  
9 shareholder's distributive share of income from a partnership or  
10 Pennsylvania S corporation.

11 "Payor." The person required to withhold under this  
12 subsection.

13 \* \* \*

14 Section 352. Additions, Penalties and Fees.--\* \* \*

15 (f) (1) Any person required under the provisions of section  
16 317 to furnish a statement to an employee who wilfully furnishes  
17 a false or fraudulent statement, or who wilfully fails to  
18 furnish a statement in the manner, at the time, and showing the  
19 information required under section 317 and the regulations  
20 prescribed thereunder, shall, for each such failure, be subject  
21 to a penalty of fifty dollars (\$50) for each employee.

22 (2) Any person required to furnish an information return who  
23 furnishes a false or fraudulent return or who fails to file or  
24 provide an information return shall be subject to a penalty of  
25 two hundred fifty dollars (\$250).

26 (3) Every partnership, estate, trust or Pennsylvania S  
27 corporation required to file a return with the department under  
28 the provisions of section 330.1 or 335(c) who furnishes a false  
29 or fraudulent return or who fails to file the return in the  
30 manner and at the time required under section 330.1 or 335(c)  
31 shall be subject to a penalty of \$250 for each failure.

32 (4) Any person required to file a copy of form 1099-MISC  
33 with the department under the provisions of section 335(f) who  
34 wilfully furnishes a false or fraudulent form or who wilfully  
35 fails to file the form in the manner, at the time and showing  
36 the information required under section 335(f) shall, for each  
37 such failure, be subject to a penalty of fifty dollars (\$50).

38 (5) Any person required under the provisions of section  
39 335(f) to furnish a copy of form 1099-MISC to a payee who  
40 wilfully furnishes a false or fraudulent form or who wilfully  
41 fails to furnish a form in the manner, at the time and showing  
42 the information required by section 335(f) shall, for each such  
43 failure, be subject to a penalty of fifty dollars (\$50).

44 (6) Any person required to file an annual statement with the  
45 department under the provisions of section 324.5 who wilfully  
46 furnishes a false or fraudulent statement or who wilfully fails  
47 to file the statement in the manner, at the time and showing the  
48 information required under section 324.5 and the regulations  
49 prescribed under section 324.5 shall, for each such failure, be  
50 subject to a penalty of fifty dollars (\$50).

51 (7) Any person required under the provisions of section

1 324.5 to furnish an annual statement to a lessor who wilfully  
2 furnishes a false or fraudulent statement or who wilfully fails  
3 to furnish a statement in the manner, at the time and showing  
4 the information required by section 324.5 and the regulations  
5 prescribed under section 324.5 shall, for each such failure, be  
6 subject to a penalty of fifty dollars (\$50).

7 (h) If any amount of tax required to be withheld by an  
8 employer and paid over to the department under section 319 or  
9 319.1 is not paid on or before the due date prescribed for  
10 filing the quarterly return under section 318 or 318.1,  
11 determined without regard to an extension of time for filing,  
12 there shall be added to the tax and paid to the department each  
13 month five per cent of such underpayment for each month or  
14 fraction thereof from the due date, for the period from the due  
15 date to the date paid; but the underpayment shall, for purposes  
16 of computing the addition for any month, be reduced by the  
17 amount of any part of the tax which is paid by the beginning of  
18 that month. The total of such additions shall not exceed fifty  
19 per cent of the amount of tax required to be shown on the return  
20 reduced by the amount of any part of the tax which is paid by  
21 the return due date and by the amount of any credit against the  
22 tax which may be claimed on the return.

23 \* \* \*

24 (j) If any amount of tax required to be withheld by a  
25 partnership, association [or], Pennsylvania S corporation or  
26 lessee and paid over to the department under section 324 or  
27 324.4 is not paid on or before the date prescribed therefor,  
28 there shall be added to the tax and paid to the department each  
29 month five per cent of such underpayment for each month or  
30 fraction thereof from the due date, for the period from the due  
31 date to the date paid; but the underpayment shall, for purposes  
32 of computing the addition for any month, be reduced by the  
33 amount of any part of the tax which is paid by the beginning of  
34 that month. The total of such additions shall not exceed fifty  
35 per cent of the amount of such tax.

36 Section 27. Section 401(3)4(c) of the act is amended and the  
37 subsection is amended by adding a clause to read:

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

42 \* \* \*

43 (3) "Taxable income." \* \* \*

44 4. \* \* \*

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

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

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

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

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

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

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

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

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

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

26 (1.1) In no event shall the net loss deduction include more  
27 than five hundred thousand dollars (\$500,000), in the aggregate,  
28 of net losses from taxable years 1988 through 1994.

29 (2) (A) A net loss for a taxable year may only be carried  
30 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 1995 taxable year
1994	1 taxable year
1995-1997	10 taxable years
1998 and thereafter	20 taxable years

49 (B) The earliest net loss shall be carried over to the  
50 earliest taxable year to which it may be carried under this  
51 schedule. The total net loss deduction allowed in any taxable

year shall not exceed:

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

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

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

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

(V) 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) for taxable years beginning after December 31, 2013.

(VI) 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) for taxable years beginning after December 31, 2014.

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

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

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

\* \* \*

Section 28. Article IV of the act is amended by adding a part to read:

PART IV-A  
QUALIFIED MANUFACTURING INNOVATION  
AND REINVESTMENT DEDUCTION

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

(1) "Annual taxable payroll." The total amount of wages paid in this Commonwealth by a taxpayer for the base year or year one, as applicable, from which personal income tax under Article III is withheld.

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

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

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

5     (5) "Qualified manufacturing innovation and reinvestment  
6 deduction." An allowable deduction as determined, calculated  
7 and executed in a commitment letter between the department and  
8 the taxpayer.

9     (6) "Qualified tax liability." A taxpayer's tax liability  
10 under this article.

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

15     (8) "Taxpayer." An employer subject to the tax under this  
16 article.

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

19     Section 407.7. Manufacturing Innovation and Reinvestment  
20 Deduction.--(a) In order to be eligible to receive a  
21 manufacturing innovation and reinvestment deduction, a taxpayer  
22 must demonstrate to the department a capital investment in  
23 excess of one hundred million dollars (\$100,000,000) for the  
24 creation of new or refurbished manufacturing capacity within  
25 three years of a designated start date.

26     (b) (1) A taxpayer must advise the department in advance of  
27 the start date of any project for which the taxpayer may seek a  
28 qualified manufacturing innovation and reinvestment deduction. A  
29 taxpayer must attest the taxpayer's intent to meet the  
30 eligibility criteria and provide relevant information pertinent  
31 to the project's size and scope in a manner as determined by the  
32 department.

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

38     (c) Upon the receipt of the taxpayer's application, the  
39 Department of Revenue must make a finding that the applicant has  
40 filed all required State tax reports and returns for all  
41 applicable tax years and paid any balance of State tax due as  
42 determined at settlement, assessment or determination and the  
43 department, then in conjunction with the Department of Revenue,  
44 shall make an eligibility or satisfaction determination within  
45 ninety days of submission. If the department makes a  
46 satisfaction determination, the department and the taxpayer  
47 shall execute a satisfaction commitment letter containing the  
48 following:

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

51     (2) The number of new jobs created during construction of

1 the project.

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

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

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

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

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

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

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

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

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

32 \* \* \*

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

46 \* \* \*

47 Section 30. Section 1102-C.2 of the act, amended July 13,  
48 2016 (P.L.526, No.84), is amended to read:

49 Section 1102-C.2. Exempt Parties.--The United States, the  
50 Commonwealth or any of their instrumentalities, agencies or  
51 political subdivisions, or veterans' service organizations shall



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

4 Section 31. The act is amended by adding an article to read:

5 ARTICLE XVII-A.1

6 TAX CREDIT ELIGIBILITY

7 Section 1701-A.1. Definitions.

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

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

12 "Tax credit." A tax credit authorized under any of the  
13 following:

14 (1) Article XVII-B.

15 (2) Article XVII-D.

16 (3) Article XVII-E.

17 (4) Article XVII-G.

18 (5) Article XVII-H.

19 (6) Article XVII-I.

20 (7) Article XVII-J.

21 (8) Article XVII-K.

22 (9) Article XVIII.

23 (10) Article XVIII-B.

24 (11) Article XVIII-D.

25 (12) Article XVIII-E.

26 (13) Article XVIII-F.

27 (14) Article XVIII-G.

28 (15) Article XIX-A.

29 (16) Article XIX-E.

30 (17) Section 2010.

31 (18) Article XXIX-D.

32 (19) Article XX-B of the act of March 10, 1949 (P.L.30,

33 No.14), known as the Public School Code of 1949.

34 Section 1702-A.1. Eligibility.

35 (a) Except as otherwise provided by law, before a tax credit  
36 can be awarded, the department may make a finding that the  
37 taxpayer has filed all required State tax reports and returns  
38 for all applicable taxable years and paid any balance of State  
39 tax due as determined at settlement or assessment by the  
40 department, unless the tax due is currently under appeal.

41 (b) (Reserved).

42 Section 32. Section 1711-D of the act is amended by adding  
43 definitions to read:

44 Section 1711-D. Definitions.

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

48 "Deteriorated property." Any blighted, impoverished area  
49 containing industrial, commercial or other real property that is  
50 abandoned, unsafe, vacant, undervalued, underutilized,  
51 overgrown, defective, condemned, demolished or which contains

1 economically undesirable land use.

2 \* \* \*

3 "Film production tax credit district." A district authorized  
4 under section 1716.2-D.

5 \* \* \*

6 Section 33. Section 1712-D of the act is amended by adding a  
7 subsection to read:

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

9 \* \* \*

10 (b.1) Review and approval of applications for film  
11 production tax credit district activity.--For applications  
12 involving film production expenses incurred within a designated  
13 film production tax credit district authorized under section  
14 1716.2-D, the department shall accept applications at any time.  
15 Applications shall be reviewed by the department utilizing the  
16 criteria required under subsection (b). Upon determining the  
17 taxpayer has incurred or will incur qualified film production  
18 expenses, the department shall approve the taxpayer for a tax  
19 credit utilizing the tax credits authorized under section  
20 1716.2-D, not to exceed the amount authorized for the fiscal  
21 year.

22 \* \* \*

23 Section 34. The act is amended by adding a section to read:  
24 Section 1716.2-D. Film production tax credit districts.

25 (a) Establishment.--The department may designate not more  
26 than two film production tax credit districts for the purpose of  
27 enhancing, promoting and expanding film production opportunities  
28 and establishing a film production industry within this  
29 Commonwealth.

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

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

32 (2) Be located on deteriorated property.

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

35 (i) in the aggregate, make a capital investment of  
36 at least \$400,000,000 within the district within five  
37 years after the effective date of the designation of the  
38 district; and

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

43 (4) Contain at least one qualified production facility  
44 and six sound stages.

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

46 (1) An application to designate a film production tax  
47 credit district may be made by the county or municipality in  
48 which all or part of the district will be located. The  
49 department shall review the application and, if approved,  
50 issue a designation for the film production tax credit  
51 district. The application period shall be set by the

1 department.

2 (2) The application shall contain the following  
3 information:

4 (i) The geographic area of the proposed film  
5 production tax credit district.

6 (ii) A detailed map of the proposed district,  
7 including geographic boundaries, total area and present  
8 use and conditions of the land and structures.

9 (iii) A description of the current social, economic  
10 and demographic characteristics of the proposed district  
11 and anticipated improvements in education, health, human  
12 services, public safety and employment that will result  
13 from designation of the district.

14 (iv) A description of anticipated film production  
15 activity and ancillary activities in the proposed  
16 district.

17 (v) Evidence of potential private and public  
18 investment in the proposed district.

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

21 (d) Designation period.--A district designated under  
22 subsection (c) shall expire 15 years after the effective date of  
23 the designation.

24 (e) Construction.--The tax credits authorized under this  
25 section are in addition to the tax credits under section 1716-  
26 D(a) and are available exclusively for activities occurring  
27 within the designated district.

28 (f) Annual tax credits.--The department may authorize a tax  
29 credit for a film production tax credit district in fiscal year  
30 2019-2020 and in each fiscal year thereafter.

31 Section 35. Article XVII-D of the act is amended by adding a  
32 subarticle to read:

33 SUBARTICLE E

34 ENTERTAINMENT ECONOMIC ENHANCEMENT PROGRAM

35 Section 1771-D. Scope of subarticle.

36 This subarticle relates to the Entertainment Economic  
37 Enhancement Program.

38 Section 1772-D. Definitions.

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

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

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

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

51 "Class 2 venue." A stadium, arena or other structure at

1 which concerts are performed and which is all of the following:

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

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

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

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

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

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

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

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

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

25 "Maintained a place of business" or "maintaining a place of  
26 business." All of the following:

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

29 (2) Regularly engaging in an activity as a business  
30 within this Commonwealth in connection with the lease, sale  
31 or delivery of tangible personal property or the performance  
32 of a service for residents of this Commonwealth.

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

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

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

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

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

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

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

47 (2) A Pennsylvania S corporation as defined in section  
48 301(n.1).

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

50 "Pennsylvania rehearsal and tour expenses." The sum of  
51 Pennsylvania rehearsal expenses and tour expenses. The term

1 includes Pennsylvania rehearsal expenses and tour expenses paid  
2 prior to or during a rehearsal or tour.

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

6 (1) A payment which is made or will be made by a  
7 recipient to a person upon which withholding will be made on  
8 the payment by the recipient as required under Part VII of  
9 Article III or a payment which is made or will be made to a  
10 person who is required to make estimated payments under Part  
11 VIII of Article III.

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

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

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

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

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

32 (2) Has a permanent grid system with a capacity of  
33 1,000,000 pounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (5) The cost of leasing vehicles.

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

21 (7) The cost of insurance coverage.

22 (8) The cost of food and lodging.

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

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

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

28 "Rehearsal facility." As follows:

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

31 (i) Located within this Commonwealth.

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

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

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

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

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

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

50 "Tour expense." As follows:

51 (1) Costs incurred or which will be incurred during a

1 tour for venues located in this Commonwealth. The term  
2 includes all of the following:

3 (i) A payment which is made or will be made by a  
4 recipient to a person upon which withholding will be made  
5 on the payment by the recipient as required under Part  
6 VII of Article III or a payment which is made or will be  
7 made to a person who is required to make estimated  
8 payments under Part VIII of Article III.

9 (ii) The cost of transportation of people or concert  
10 touring equipment which is incurred or will be incurred  
11 while transporting to or from a train station, bus depot,  
12 airport or other transportation facility or while  
13 transporting directly from a residence or business entity  
14 located in this Commonwealth, or which is incurred or  
15 will be incurred for transportation provided by a company  
16 which is subject to the tax imposed under Article III or  
17 IV.

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

20 (iv) The cost of insurance coverage which is  
21 purchased or will be purchased through an insurance agent  
22 based in this Commonwealth.

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

26 (vi) The cost of food and lodging which is incurred  
27 or will be incurred from a facility located in this  
28 Commonwealth.

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

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

35 (ix) A payment which is made or will be made to a  
36 personal service corporation representing individual  
37 talent if the tax imposed by Article IV will be paid or  
38 accrued on the net income of the corporation for the  
39 taxable year.

40 (x) A payment which is made or will be made to a  
41 pass-through entity representing individual talent for  
42 which withholding will be made by the pass-through entity  
43 on the payment as required under Part VII or VII-A of  
44 Article III.

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

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

48 Section 1773-D. Procedure.

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

1 (b) Review and approval.--

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

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

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

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

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

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

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

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

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

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

29 (2) Except as provided in subsection (c) and upon  
30 determining that the taxpayer has paid the applicable  
31 application fee not to exceed \$300, has met or will meet the  
32 minimum rehearsal and tour requirements and has incurred or  
33 will incur qualified rehearsal and tour expenses, the  
34 department may approve the taxpayer for a tax credit.  
35 Applications not approved may be reviewed and considered in  
36 subsequent application periods. The department may approve a  
37 taxpayer for a tax credit based on its evaluation of the  
38 criteria under this subsection.

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

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

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

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

51 (3) With respect to a contract entered into prior to



1 completion of a tour, a commitment by the taxpayer to incur  
2 the Pennsylvania rehearsal expenses as itemized.

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

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

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

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

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

17 (9) Any other information the department deems  
18 appropriate.

19 (e) Certificate.--Upon execution of the contract required by  
20 subsection (d), the department shall award the taxpayer a  
21 concert rehearsal and tour tax credit and issue the recipient a  
22 tax credit certificate.

23 Section 1774-D. Claim.

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

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

29 (a) General rule.--If a recipient cannot use the entire  
30 amount of a tax credit for the taxable year in which the tax  
31 credit is first approved, the excess may be carried over to  
32 succeeding taxable years and used as a tax credit against the  
33 qualified tax liability of the recipient for those taxable  
34 years. Each time the tax credit is carried over to a succeeding  
35 taxable year, the tax credit shall be reduced by the amount that  
36 was used as a credit during the immediately preceding taxable  
37 year. The tax credit may be carried over and applied to  
38 succeeding taxable years for no more than three taxable years  
39 following the first taxable year for which the recipient was  
40 entitled to claim the tax credit.

41 (b) Application.--A tax credit approved by the department in  
42 a taxable year first shall be applied against the recipient's  
43 qualified tax liability for the current taxable year as of the  
44 date on which the tax credit was approved before the tax credit  
45 can be applied against tax liability under subsection (a).

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

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

51 (1) A recipient, upon application to and approval by the

1 department, may sell or assign, in whole or in part, a tax  
2 credit granted to the recipient under this subarticle.

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

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

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

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

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

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

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

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

34 Section 1776-D. Determination of Pennsylvania rehearsal and  
35 tour expenses.

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

40 (1) The location where services are performed.

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

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

44 (4) Other factors the department determines are  
45 relevant.

46 Section 1777-D. Limitations.

47 (a) Cap.--Except as provided in this subsection, the  
48 department may not award tax credits for qualified rehearsal and  
49 tour expenses incurred or to be incurred related to more than  
50 five tours in a fiscal year. In a fiscal year, the department  
51 may, in the department's discretion, advance the award of tax

1 credits for qualified rehearsal and tour expenses incurred or to  
2 be incurred related to a maximum of two additional tours.

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

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

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

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

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

16 (2) Except as provided under paragraph (5), the  
17 aggregate amount of tax credits awarded by the department  
18 under section 1773-D(e) to a taxpayer for a tour with  
19 concerts at two class 1 venues or a class 1 venue and a class  
20 2 venue may not exceed 25% of the qualified rehearsal and  
21 tour expenses incurred or to be incurred.

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

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

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

40 (d) Qualified rehearsal facility.--To be considered a  
41 qualified rehearsal facility under this subarticle, the owner of  
42 a rehearsal facility shall provide evidence to the department to  
43 verify the development or facility specifications and capital  
44 improvement costs incurred for the rehearsal facility so that  
45 the threshold amounts set in the definition of "qualified  
46 rehearsal facility" under section 1772-D are satisfied, and,  
47 upon verification, the rehearsal facility shall be registered by  
48 the department officially as a qualified rehearsal facility.

49 (e) Waiver.--The department may make a determination that  
50 the financial benefit to this Commonwealth resulting from the  
51 direct investment in or payments made to Pennsylvania rehearsal

1 and concert facilities outweighs the benefit of maintaining the  
2 60% Pennsylvania rehearsal expenses requirement contained in the  
3 definition of "qualified rehearsal and tour expense" under  
4 section 1772-D. If the determination is made, the department may  
5 waive the requirement that 60% of a tour's aggregate rehearsal  
6 expenses be comprised of Pennsylvania rehearsal expenses.  
7 Section 1778-D. Penalty.

8 A recipient which claims a tax credit and fails to incur the  
9 amount of qualified rehearsal and tour expenses agreed to under  
10 section 1773-D(d)(4) for a tour in that taxable year shall repay  
11 to the Commonwealth an amount equal to 110% of the difference  
12 between the amount agreed to under section 1773-D(d)(4) and the  
13 amount of qualified rehearsal and tour expenses actually  
14 incurred by the recipient. The penalty shall be assessed and  
15 collected under Article II.

16 Section 1779-D. Pass-through entity.

17 (a) General rule.--If a pass-through entity has any unused  
18 tax credits under section 1775-D, the pass-through entity may  
19 elect in writing, according to procedures established by the  
20 Department of Revenue, to transfer all or a portion of the tax  
21 credits to shareholders, members or partners in proportion to  
22 the share of the entity's distributive income to which each  
23 shareholder, member or partner is entitled.

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

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

34 Section 1780-D. Department guidelines and regulations.

35 The department shall develop written guidelines for the  
36 implementation of this subarticle. The guidelines shall be in  
37 effect until the department promulgates regulations for the  
38 implementation of this subarticle.

39 Section 1781-D. Report to General Assembly.

40 No later than June 1, 2018, and September 1 of each year  
41 thereafter, the Secretary of Community and Economic Development  
42 shall submit a report to the General Assembly summarizing the  
43 effectiveness of the tax credits provided by this subarticle.  
44 The report shall include the name of the tours which rehearsed  
45 in this Commonwealth, the names of all recipients awarded a tax  
46 credit as of the date of the report and the amount of tax  
47 credits approved for each recipient. The report may also include  
48 recommendations for changes in the calculation or administration  
49 of the tax credits provided under this subarticle. The report  
50 shall be submitted to the chairperson and minority chairperson  
51 of the Appropriations Committee of the Senate, the chairperson

1 and minority chairperson of the Finance Committee of the Senate,  
2 the chairperson and minority chairperson of the Appropriations  
3 Committee of the House of Representatives and the chairperson  
4 and minority chairperson of the Finance Committee of the House  
5 of Representatives. The report shall include the following  
6 information, which shall be separated by geographic location  
7 within this Commonwealth:

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

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

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

16 Section 36. The definition of "qualified tax liability" in  
17 section 1702-G of the act is amended to read:

18 Section 1702-G. Definitions.

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

22 \* \* \*

23 "Qualified tax liability." The liability for taxes imposed  
24 under Articles III, IV, VI, VII, VIII, IX, XI and XV. The term  
25 does not include tax withheld under section [316] 316.1.

26 \* \* \*

27 Section 36.1. Section 1811-C(b) of the act is amended by  
28 adding a paragraph to read:

29 Section 1811-C. Certification.

30 \* \* \*

31 (b) Content.--

32 \* \* \*

33       (3) The department shall request documentation regarding  
34 State eligible taxes paid or refunds received from the agency  
35 required to collect the taxes or issue the refunds before  
36 requiring such documentation from the qualified business.  
37 Instructions issued by the department after the effective  
38 date of this section shall include a statement that the  
39 qualified business will not be required to submit supporting  
40 documentation with the qualified business's request for  
41 certification under this article. Nothing in this paragraph  
42 shall prohibit the department from auditing reports submitted  
43 by qualified businesses for compliance with this article.

44 \* \* \*

45 Section 37. Sections 1813-C and 1814-C of the act, amended  
46 July 13, 2016 (P.L.526, No.84), are amended to read:

47 Section 1813-C. Restrictions.

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

50       (1) Payment of debt service on bonds issued or  
51 refinanced for the acquisition, development, construction,

1 including related infrastructure and site preparation,  
2 reconstruction, renovation or refinancing of a facility in  
3 the zone and normal and customary fees for professional  
4 services associated with the issuance or refinance of the  
5 bonds.

6 (2) Acquisition, development, construction, including  
7 related infrastructure and site preparation, reconstruction,  
8 renovation or refinancing of all or a part of a facility.

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

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

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

14 (6) Improvement projects, including fixtures and  
15 equipment for a facility owned, in whole or in part, by a  
16 public authority.

17 (7) Payment or reimbursement of reasonable  
18 administrative, auditing and compliance services required by  
19 this article. Reasonable administrative costs may not exceed  
20 5% of the money transferred under section 1812-C. For  
21 purposes of this paragraph, professional services shall not  
22 be considered administrative costs.

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

25 (c) Excess money.--

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

33 (2) At the time of submission to the State Treasurer,  
34 the contracting authority shall submit to the State  
35 Treasurer, the office and the department a detailed  
36 accounting of the calculation resulting in the excess money.

37 (3) The excess money shall be credited to the  
38 contracting authority and applied to the amount required to  
39 be repaid under section 1812-C(c)(5) until there is full  
40 repayment.

41 (4) Paragraph (1) does not apply to money utilized in a  
42 pilot zone provided the excess money is used in accordance  
43 with subsection (a).

44 (d) Matching funds.--

45 (1) The amount of money transferred from the fund  
46 utilized for the acquisition, development, construction,  
47 including related site preparation and infrastructure,  
48 reconstruction or renovation of facilities, or normal and  
49 customary fees for professional services shall be matched by  
50 private, Federal or local money at a ratio of five fund  
51 dollars to one private, Federal or local dollar. The

contracting authority shall verify the private, Federal or local match for a project at the time of the bond and report proof of the match to the agencies. All of the following shall be deemed private money:

- (i) Equity.
- (ii) Private developer debt and financing.
- (iii) Soft costs associated with land development.
- (iv) Costs of professional services associated with development.
- (v) Costs associated with improvements of the parcel.
- (vi) Costs of land acquisition and real estate transactions.

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

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

(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

1 municipality where the parcel sits. The hearing shall be held  
2 and notice provided to the owner of the parcel in accordance  
3 with section 908 of the act of July 31, 1968 (P.L.805,  
4 No.247), known as the Pennsylvania Municipalities Planning  
5 Code. For purposes of this section, activity shall include,  
6 but not be limited to, construction, building, renovation,  
7 reconstruction, site preparation and site development.

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

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

18 Section 38. (Reserved).

19 Section 39. The act is amended by adding a section to read:

20 Section 1904.3-B. Transfer of property.

21 (a) Transfer of parcels.--Parcels in a zone may be  
22 transferred out of the zone and replaced with parcels not to  
23 exceed the acreage transferred out of the zone by the  
24 contracting authority, if:

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

28 (2) The municipality where the zone is located certifies  
29 that there is currently no activity in the parcels  
30 transferred into the zone that generates tax receipts or  
31 other revenue, other than taxes on real property, to the  
32 municipality and the school district and county where the  
33 zone is located.

34 (b) Public hearing.--The following apply:

35 (1) For a parcel identified by the contracting authority  
36 to be transferred out of the zone, the contracting authority  
37 may conduct a public hearing pursuant to a request from an  
38 owner of real estate located within the parcel or the city or  
39 municipality where the parcel sits. The hearing shall be held  
40 and notice of the hearing provided to the owner of the parcel  
41 in accordance with section 908 of the act of July 31, 1968  
42 (P.L.805, No.247), known as the Pennsylvania Municipalities  
43 Planning Code.

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

48 Section 40. Section 1911-D(c) of the act, added July 13,  
49 2016 (P.L.526, No.84), is amended to read:

50 Section 1911-D. Additional keystone opportunity zones.

51 \* \* \*



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

\* \* \*

Section 41. Section 2166 of the act is amended to read:

Section 2166. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the department or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with the law if the letter transmitting the report or payment of the tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received. For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment. Any inheritance tax return filed after July 1, 2012, under section 2136 that reports transfers of property that are exempt from the inheritance tax under section 2111(s), (s.1) and (t) shall be considered timely filed if filed within one year of the tax return due date, including an extended due date.

Section 42. Section 2301(e) of the act is amended and the section is amended by adding a subsection to read:

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

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

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

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

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

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

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

11     (iv) Allows a vehicle to be rented on a per minute, per  
12 hour, per day, or per trip basis, and at per mile or per  
13 kilometer rates, which typically include fuel, insurance and  
14 maintenance.

15     Section 43. The act is amended by adding an article to read:

16                     ARTICLE XXIV

17                     FIREWORKS

18     Section 2401. Definitions.

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

22     "APA 87-1." The American Pyrotechnics Association Standard  
23 87-1: Standard for Construction and Approval for Transportation  
24 of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001  
25 edition, or any subsequent edition.

26     "Consumer fireworks."

27         (1) Any combustible or explosive composition or any  
28 substance or combination of substances which is intended to  
29 produce visible or audible effects by combustion, is suitable  
30 for use by the public, complies with the construction,  
31 performance, composition and labeling requirements  
32 promulgated by the Consumer Products Safety Commission in 16  
33 CFR (relating to commercial practices) or any successor  
34 regulation and complies with the provisions for "consumer  
35 fireworks" as defined in APA 87-1 or any successor standard,  
36 the sale, possession and use of which shall be permitted  
37 throughout this Commonwealth.

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

43     "Display fireworks." Large fireworks to be used solely by  
44 professional pyrotechnicians and designed primarily to produce  
45 visible or audible effects by combustion, deflagration or  
46 detonation. The term includes, but is not limited to:

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

49         (2) aerial shells containing more than 60 grams of  
50 pyrotechnic compositions; and

51         (3) other display pieces that exceed the limits of

explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

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

"NFPA 1124." The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

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

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

"Temporary structure." A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell consumer fireworks under this article.

#### Section 2402. Permits.

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

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

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

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

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

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

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

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

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

1 Section 2403. Request for extension.

2 (a) Authorization.--If, because of unfavorable weather, the  
3 display for which a permit has been granted does not occur at  
4 the time authorized by the permit, the person to whom the permit  
5 was issued may within 24 hours apply for a request for extension  
6 to the municipality which granted the permit.

7 (b) Contents of request.--The request for extension shall  
8 state under oath that the display was not made, provide the  
9 reason that the display was not made and request a continuance  
10 of the permit for a date designated within the request, which  
11 shall be not later than one week after the date originally  
12 designated in the permit.

13 (c) Determination.--Upon receiving the request for  
14 extension, the municipality, if it believes that the facts  
15 stated within the request are true, shall extend the provisions  
16 of the permit to the date designated within the request, which  
17 shall be not later than one week after the date originally  
18 designated in the permit.

19 (d) Conditions.--The extension of time shall be granted  
20 without the payment of an additional fee and without requiring a  
21 bond other than the bond given for the original permit, the  
22 provisions of which shall extend to and cover all damages which  
23 may be caused by reason of the display occurring at the extended  
24 date and in the same manner and to the same extent as if the  
25 display had occurred at the date originally designated in the  
26 permit.

27 Section 2404. Use of consumer fireworks.

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

31 (b) Prohibitions.--A person may not intentionally ignite or  
32 discharge:

33 (1) Consumer fireworks on public or private property  
34 without the express permission of the owner.

35 (2) Consumer fireworks or sparkling devices within, or  
36 throw consumer fireworks or sparkling devices from, a motor  
37 vehicle or building.

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

40 (4) Consumer fireworks or sparkling devices while the  
41 person is under the influence of alcohol, a controlled  
42 substance or another drug.

43 (5) Consumer fireworks within 150 feet of an occupied  
44 structure.

45 Section 2404.1. Use of display fireworks.

46 No display fireworks shall be ignited within 300 feet of a  
47 facility that meets the requirements of section 2407 or 2410.

48 Section 2405. Agricultural purposes.

49 (a) Authorization.--The governing body of a municipality  
50 may, under reasonable rules and regulations adopted by it, grant  
51 permits for the use of suitable fireworks for agricultural

1 purposes in connection with the raising of crops and the  
2 protection of crops from bird and animal damage.

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

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

9 Section 2406. Rules and regulations by municipality.

10 (a) Authorization.--Permission shall be given by the  
11 governing body of a municipality under reasonable rules and  
12 regulations for displays of display fireworks to be held within  
13 the municipality.

14 (b) Conditions.--

15 (1) Each display shall be:

16 (i) handled by a competent operator; and

17 (ii) of a character and so located, discharged or  
18 fired as, in the opinion of the chief of the fire  
19 department or other appropriate officer as may be  
20 designated by the governing body of the municipality,  
21 after proper inspection, to not be hazardous to property  
22 or endanger any person.

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

26 (3) A permit shall be transferable.

27 Section 2407. Sales locations.

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

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

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

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

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

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

44 (6) The facility shall have a monitored burglar and fire  
45 alarm system.

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

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

49 (a) Initial application fees.--

50 (1) An initial application for a license to sell  
51 consumer fireworks shall be submitted to the Department of

Agriculture on forms prescribed and provided by the department with a nonrefundable application fee as follows:

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

(ii) For a facility meeting the requirements of section 2410, the application shall be submitted with a nonrefundable application fee of \$1,000 no later than 60 days prior to the first day of sale.

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

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

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

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

(3) \$20,000 for a location greater than 15,000 square feet; and

(4) \$3,000 for a temporary structure.

(c) Time limitations and inspections.--

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

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

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

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

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

Section 2409. Conditions for facilities.

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

(1) There shall be security personnel on the premises for the seven days preceding and including July 4 and for the

1 three days preceding and including January 2.

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

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

6 (4) No minors shall be permitted in the facility unless  
7 accompanied by an adult, and each minor shall stay with the  
8 adult in the facility.

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

11 (6) A licensee shall provide its employees with  
12 documented training in the area of operational safety of a  
13 facility. The licensee shall provide to the Department of  
14 Agriculture written documentation that each employee has  
15 received the training.

16 (7) No display fireworks shall be stored or located at a  
17 facility.

18 (8) No person who appears to be under the influence of  
19 intoxicating liquor or drugs shall be admitted to the  
20 facility, and no liquor, beer or wine shall be permitted in  
21 the facility.

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

24 Section 2410. Temporary structures.

25 (a) Conditions.--Notwithstanding section 2407 or any other  
26 provision of law, a temporary structure may be licensed by the  
27 Department of Agriculture to sell consumer fireworks if the  
28 temporary structure meets all of the following requirements:

29 (1) The temporary structure is located no closer than  
30 250 feet from a facility storing, selling or dispensing  
31 gasoline, propane or other flammable products.

32 (2) An evacuation plan is posted in a conspicuous  
33 location for a temporary structure in accordance with NFPA  
34 1124.

35 (3) The outdoor storage unit, if any, is separated from  
36 the wholesale or retail sales area to which a purchaser may  
37 be admitted by appropriately rated fire separation.

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

41 (5) The temporary structure is located one of the  
42 following distances from a permanent facility licensed to  
43 sell consumer fireworks under the act of May 15, 1939  
44 (P.L.134, No.65), referred to as the Fireworks Law, at the  
45 time of the effective date of this article:

46 (i) Prior to January 1, 2023, at least five miles.

47 (ii) Beginning January 1, 2023, at least two miles.

48 (6) The temporary structure does not exceed 2,500 square  
49 feet.

50 (7) The temporary structure is secured at all times  
51 during which consumer fireworks are displayed within the

1 structure.

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

4 (9) The sales period is limited to June 15 through July  
5 8 and December 21 through January 2 of each year.

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

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

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

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

12 (3) Mine and shell devices not exceeding 500 grams.

13 Section 2411. Attorney General.

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

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

19 Section 2412. Consumer fireworks tax.

20 (a) Imposition.--In addition to any other tax imposed by  
21 law, a tax is imposed on each separate sale at retail of  
22 consumer fireworks, which tax shall be collected by the retailer  
23 from the purchaser at the time of sale and shall be paid over to  
24 the Commonwealth as provided in this section. A tax imposed  
25 under this subsection on each separate sale at retail shall be  
26 paid to and received by the Department of Revenue and, along  
27 with interest and penalties, shall be deposited into the General  
28 Fund.

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

33 (c) Collection and administration.--The provisions of Part  
34 VI of Article II shall apply to the tax authorized under  
35 subsection (a). No additional fee shall be charged for a license  
36 or license renewal other than the license or renewal fee  
37 required under section 2408 and the license or renewal fee  
38 authorized and imposed under Article II.

39 Section 2413. Disposition of certain funds.

40 (a) Transfer.--One-sixth of the tax collected under this  
41 article in a fiscal year, not to exceed \$2,000,000, shall be  
42 transferred annually for use as follows:

43 (1) Seventy-five percent of the amount transferred under  
44 this subsection shall be used for the purpose of making  
45 grants under 35 Pa.C.S. Ch. 78 Subch. C (relating to  
46 Emergency Medical Services Grant Program).

47 (2) Twenty-five percent of the amount transferred under  
48 this subsection shall be deposited into a special account in  
49 the State Treasury designated as the Online Training Educator  
50 and Training Reimbursement Account for the purposes of  
51 developing, delivering and sustaining training programs for



1 volunteer firefighters in this Commonwealth.

2 (3) The Office of the State Fire Commissioner shall  
3 establish guidelines for use of the money deposited under  
4 paragraph (2). By December 31, 2018, and each December 31  
5 thereafter, the Office of the State Fire Commissioner shall  
6 provide a written report detailing the use of the money  
7 received from the prior fiscal year to the chairperson and  
8 minority chairperson of the Agriculture and Rural Affairs  
9 Committee of the Senate, the chairperson and minority  
10 chairperson of the Veterans Affairs and Emergency  
11 Preparedness Committee of the Senate, the chairperson and  
12 minority chairperson of the Agriculture and Rural Affairs  
13 Committee of the House of Representatives and the Veterans  
14 Affairs and Emergency Preparedness Committee of the House of  
15 Representatives.

16 (b) Payments.--The transfer required under subsection (a)  
17 shall be made by September 15, 2018, and each September 15  
18 thereafter.

19 Section 2414. Penalties.

20 The following shall apply:

21 (1) A person using consumer fireworks in violation of  
22 the provisions of this article commits a summary offense and,  
23 upon conviction, shall be punished by a fine of not more than  
24 \$100.

25 (2) A person selling consumer fireworks in violation of  
26 the provisions of this act commits a misdemeanor of the  
27 second degree.

28 (3) A person selling display fireworks in violation of  
29 the provisions of this act commits a felony of the third  
30 degree.

31 (4) A person selling federally illegal explosives such  
32 as devices as described in 49 CFR 173.54 (relating to  
33 forbidden explosives) or those devices that have not been  
34 tested, approved and labeled by the United States Department  
35 of Transportation, including, but not limited to, those  
36 devices commonly referred to as "M-80," "M-100,"  
37 "blockbuster," "cherry bomb" or "quarter or half stick"  
38 explosive devices, in violation of the provisions of this act  
39 commits a felony of the third degree.

40 Section 2415. Removal, storage and destruction.

41 The Pennsylvania State Police, a sheriff or police officer  
42 shall take, remove or cause to be removed at the expense of the  
43 owner all stocks of consumer fireworks or display fireworks or  
44 combustibles offered or exposed for sale, stored or held in  
45 violation of this article. The owner shall also be responsible  
46 for the storage and, if deemed necessary, the destruction of  
47 these fireworks.

48 Section 2416. Transition.

49 A person who, on the effective date of this section, holds a  
50 license under the act of May 15, 1939 (P.L.134, No.65), referred  
51 to as the Fireworks Law, may continue the activity permitted by

1 the license for a period of 90 days following the effective date  
2 of this section or the date the license expires by the terms of  
3 the license, whichever is sooner. After the expiration of the  
4 90-day period or the license, whichever is sooner, the person  
5 must obtain the license required under this article to continue  
6 the permitted activity, if applicable.

7 Section 44. Section 2702(a) and (a.1)(2) of the act are  
8 amended to read:

9 Section 2702. Petition for reassessment.

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

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

15 \* \* \*

16 (2) A taxpayer must file a petition for review under  
17 this subsection within [90] 60 days of the mailing date of  
18 the department's notice of adjustment. A taxpayer's failure  
19 to file a petition under this subsection shall not prejudice  
20 the taxpayer's right to file a petition in a subsequent tax  
21 year.

22 \* \* \*

23 Section 45. Section 2704(a) and (b) of the act are amended  
24 to read:

25 Section 2704. Review by board.

26 (a) Petition for review of a decision and order.--Within  
27 [90] 60 days after the mailing date of the department's notice  
28 of decision and order on a petition filed with it, a taxpayer  
29 may petition the board to review the decision and order of the  
30 department.

31 (b) Petition for review of denial by department's failure to  
32 act.--A petition for review may be filed with the board within  
33 [90] 60 days after the mailing date of the department's notice  
34 to the petitioner of its failure to dispose of the petition  
35 within the time periods prescribed by section 2703(d) or (e).

36 \* \* \*

37 Section 45.1. The act is amended by adding an article to  
38 read:

39 ARTICLE XXVIII

40 TOBACCO MASTER SETTLEMENT PAYMENT REVENUE

41 BONDS AND SALE OF REVENUE

42 Section 2801. 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 "Account." The Tobacco Revenue Bond Debt Service Account  
47 established in section 2805.

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

50 "Authority." The Commonwealth Financing Authority  
51 established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth

1 Financing Authority).

2 "Executive director." The executive director of the  
3 Commonwealth Financing Authority.

4 "Finance." The issuance of revenue bonds utilizing a portion  
5 of annual payments due to the Commonwealth under the Master  
6 Settlement Agreement.

7 "Fund." The Tobacco Settlement Fund.

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

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

14 "Sales agreement." A written contract entered into under  
15 section 2803.1 under which a portion of the revenue the  
16 Commonwealth will receive under the Master Settlement Agreement  
17 is sold.

18 "Secretary." The Secretary of the Budget of the  
19 Commonwealth.

20 "Tobacco Settlement Act." The act of June 26, 2001 (P.L.755,  
21 No.77), known as the Tobacco Settlement Act.  
22 Section 2802. Bond issuance or sales agreement.

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

25 (1) The Commonwealth experienced a revenue deficit of  
26 \$1,106,700,308 in General Fund revenue collections for fiscal  
27 year 2016-2017.

28 (2) The Commonwealth's General Fund continues to  
29 experience a structural deficit where annual expenditures  
30 exceed recurring revenue collections.

31 (3) The General Fund for fiscal year 2016-2017 revenue  
32 shortfall in combination with the structural deficit,  
33 increased expenditure needs and increased tax refunds  
34 resulted in a significant negative ending balance in the  
35 General Fund of approximately \$1,539,000,000 for fiscal year  
36 2016-2017.

37 (4) A significant portion of the Commonwealth's General  
38 Fund annual expenditures are dedicated to the protection of  
39 the health, safety and general welfare of the people of this  
40 Commonwealth and the furtherance of economic development and  
41 efficiency within this Commonwealth by providing basic  
42 services and facilities.

43 (5) The ability of the Commonwealth to provide for the  
44 protection of the health, safety and general welfare of the  
45 people of this Commonwealth and the provision of basic  
46 services and facilities is jeopardized by the General Fund  
47 for fiscal year 2016-2017 revenue deficit and the continuing  
48 structural deficit.

49 (6) The provisions of 64 Pa.C.S. Ch. 15 (relating to  
50 Commonwealth Financing Authority) are entitled to liberal  
51 construction in order to effect legislative and public

1 purposes.

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

17 (8) The Tobacco Settlement Fund is a special revenue  
18 fund established for the purpose of providing funding for  
19 various Commonwealth programs.

20 (9) Utilizing a portion of annual payments received  
21 through the Master Settlement Agreement and deposited in the  
22 Tobacco Settlement Fund to leverage funding to offset the  
23 effect of the fiscal year 2016-2017 revenue deficit and the  
24 structural deficit is in the best interest of the  
25 Commonwealth to provide General Fund budgetary relief  
26 necessary for the protection of the health, safety and  
27 general welfare of the people of this Commonwealth and the  
28 provision of basic services and facilities.

29 (b) Authority.--Notwithstanding any other law, the authority  
30 is authorized to enter into a sales agreement on behalf of the  
31 Commonwealth or to issue bonds, the proceeds of either of which  
32 shall be deposited in the General Fund to provide General Fund  
33 budgetary relief necessary for the protection of the health,  
34 safety and general welfare of the people of this Commonwealth  
35 and the furtherance of economic development and efficiency  
36 within this Commonwealth by providing basic services and  
37 facilities.

38 (c) Duty.--The authority shall issue bonds under section  
39 2803 or enter into a sales agreement under section 2803.1. An  
40 issuance or sale under this article shall be undertaken in a  
41 manner consistent with the best interest of the Commonwealth and  
42 in a way that provides the greatest value to taxpayers and  
43 furtheres the purposes of this article.

44 (d) Procedures for sale.--A sale under this article shall be  
45 in accordance with the following:

46 (1) No later than 45 days after the effective date of  
47 this section, the executive director shall accept statements  
48 of qualifications and expressions of interest from persons in  
49 relation to a sale under this article. The executive director  
50 may specify a uniform format for statements of qualifications  
51 and required information. Persons may amend these statements

1 at any time by filing a new statement.

2 (2) The executive director or a designee of the  
3 executive director may conduct discussions with any  
4 responsible offeror to determine the offeror's qualifications  
5 for further consideration. Discussions shall not disclose any  
6 information derived from proposals submitted by other  
7 offerors.

8 (3) The State Employees Retirement System and the Public  
9 School Employees Retirement System may each submit to the  
10 executive director a statement of qualification and  
11 expression of interest under paragraph (1).

12 (4) An award to enter into a sales agreement under this  
13 article shall be made to the responsible offeror determined  
14 in writing by the authority to be best qualified based on the  
15 evaluation factors set forth in the request for proposals.  
16 The provisions of 64 Pa.C.S. § 1512(d)(1) shall apply to a  
17 decision to award under this paragraph. If terms cannot be  
18 agreed upon with the best qualified responsible offeror,  
19 negotiations will be formally terminated with the offeror. If  
20 proposals were submitted by one or more other responsible  
21 offerors, negotiations may be conducted with the other  
22 responsible offeror or responsible offerors in the order of  
23 their respective qualification ranking. The sales agreement  
24 may be entered into with the responsible offeror then ranked  
25 as best qualified if the amount of compensation is determined  
26 to be fair and reasonable.

27 (e) Debt or liability.--

28 (1) Bonds issued or a sales agreement entered into under  
29 this article shall not be a debt or liability of the  
30 Commonwealth and shall not create or constitute an  
31 indebtedness, liability or obligation of the Commonwealth.

32 (2) Bond obligations or obligations under a sales  
33 agreement shall be payable solely from revenues or funds  
34 pledged or available for repayment or payment as authorized  
35 under this article.

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

37 (i) The authority is obligated to pay the principal  
38 of or interest on the bonds only from the revenues or  
39 funds pledged or available for repayment as authorized  
40 under this article.

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

43 (iii) The full faith and credit of the Commonwealth  
44 is not pledged to the payment of the principal of or the  
45 interest on the bonds.

46 (4) Each sales agreement under this article must contain  
47 a statement that:

48 (i) The authority is obligated to pay the portion of  
49 the revenue the Commonwealth will receive under the  
50 Master Settlement Agreement only from the revenues or  
51 funds identified or available for payment as authorized

1       under this article.

2       (ii) The Commonwealth shall not be obligated to pay  
3 any amount provided in the sales agreement.

4       (iii) The full faith and credit of the Commonwealth  
5 is not pledged to the payment of any amount provided in  
6 the sales agreement.

7 Section 2803. Limitations on bond issuance.

8       (a) Maximum principal amount.--If the authority issues bonds  
9 under this article, the authority may issue bonds in a maximum  
10 aggregate principal amount sufficient to raise net proceeds of  
11 \$1,500,000,000.

12       (b) Limitation.--The authority shall not issue any bonds  
13 under this article, except refunding bonds, after June 30, 2018.  
14 The authority, in consultation with the office, shall determine  
15 the principal amounts of taxable bonds and tax-exempt bonds to  
16 be issued during fiscal year 2017-2018.

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

22       (d) Interest.--Interest on bonds issued under this article  
23 and refunding bonds authorized under this section shall be  
24 payable at the time or times the authority determines in the  
25 resolution authorizing the bonds and, except as provided under  
26 subsection (e), shall otherwise be subject to the other  
27 provisions of 64 Pa.C.S. Ch. 15 (relating to Commonwealth  
28 Financing Authority). Interest may be capitalized for a period  
29 not to exceed two years.

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

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

36 Section 2803.1. Limitations on sales agreement.

37       (a) Maximum amount.--If the authority enters into a sales  
38 agreement under this article, the authority may enter into a  
39 sales agreement to sell a portion of the revenue the  
40 Commonwealth will receive under the Master Settlement Agreement  
41 in a maximum aggregate amount sufficient to raise net proceeds  
42 of \$1,500,000,000 during the 2017-2018 fiscal year.

43       (b) Limitation.--The authority shall not enter into an  
44 agreement under this article after June 30, 2018.

45       (c) Terms of agreement.--The sales agreement may not provide  
46 for a sale of revenue in excess of 10 years worth of payments  
47 received by the Commonwealth under the Master Settlement  
48 Agreement. No payments from the Master Settlement Agreement may  
49 be required under the sales agreement before July 1, 2018.

50 Section 2804. Finance pledge.

51       (a) Annual payments for bond issuance.--

1       (1) For a bond issuance under this article, annual  
2 payments received under the Master Settlement Agreement are  
3 pledged by the Commonwealth in the amount certified by the  
4 secretary under paragraph (2) for payment of principal and  
5 interest for bonds issued by the authority under this  
6 article.

7       (2) The secretary shall certify the amount of annual  
8 payments to be pledged for payment of principal and interest  
9 for the bonds issued by the authority under this article  
10 within 30 days of the closing date of the bond transaction.  
11 The certification shall be published as a notice in the  
12 Pennsylvania Bulletin.

13       (b) Annual payments for sales agreement.--

14       (1) Annual payments received under the Master Settlement  
15 Agreement are pledged by the Commonwealth in the amount  
16 provided in the sales agreement entered into by the authority  
17 under this article.

18       (2) The secretary shall certify the amount of annual  
19 payments under the Master Settlement Agreement to be pledged  
20 for payment under the sales agreement entered into by the  
21 authority under this article within 30 days of the effective  
22 date of the sales agreement. The certification shall be  
23 published as a notice in the Pennsylvania Bulletin.

24       (c) General revenues.--

25       (1) For a bond issuance, the Commonwealth may pledge  
26 revenues collected by the Commonwealth under Article II for  
27 the payment of principal and interest for the bonds issued by  
28 the authority under this article. A pledge made under this  
29 subsection shall be subordinate to the pledge of Article II  
30 revenues made before the effective date of this section for  
31 outstanding indebtedness of the authority.

32       (2) The secretary shall certify the maximum annual  
33 amount of general revenues to be pledged to supplement  
34 amounts pledged under subsection (a) for payment of principal  
35 and interest for bonds issued by the authority under this  
36 article within 30 days of the closing date of the bond  
37 transaction. The certification shall be published as a notice  
38 in the Pennsylvania Bulletin.

39 Section 2805. Tobacco Revenue Bond Debt Service Account.

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

43       (b) Annual payments.--The amount of each annual payment  
44 received under the Master Settlement Agreement and pledged by  
45 the Commonwealth under section 2804 and certified by the  
46 secretary for the payment of principal and interest for bonds  
47 issued under this article shall be deposited in the account upon  
48 receipt of each annual payment.

49       (c) General revenue.--General revenues pledged by the  
50 Commonwealth in section 2804 and certified by the secretary for  
51 the payment of principal and interest for bonds issued under

1 this article shall be deposited in the accounts in amounts  
2 determined by the secretary.

3 (d) Payments on bonds.--Payments of principal and interest  
4 due on the bonds shall be made from the account.

5 Section 2806. Service agreement for bond issuance authorized.

6 (a) Authorization.--For a bond issuance under this article,  
7 the authority and the office may enter into an agreement or  
8 service agreement to effectuate the purposes of this article,  
9 including an agreement to secure bonds issued under this  
10 article, under which the secretary shall agree to pay service  
11 charges to the authority in each fiscal year that the bonds or  
12 refunding bonds are outstanding in amounts sufficient to timely  
13 pay in full the debt service and any other financing costs due  
14 on the bonds issued under this article.

15 (b) Payment of service charges.--The office's payment of any  
16 service charges shall be subject to and dependent upon approval  
17 by the authority and the appropriation of funds by the General  
18 Assembly to the office for payment of any service charges.

19 (c) Amendment of agreement.--The service agreement may be  
20 amended or supplemented by the authority and the office in  
21 connection with the issuance of a series of bonds or refunding  
22 bonds authorized in this section.

23 Section 2806.1. Service agreement for sales agreement  
24 authorized.

25 (a) Authorization.--For a sales agreement under this  
26 article, the authority and the office may enter into an  
27 agreement or service agreement to effectuate the purposes of  
28 this article, including a direction to the secretary to pay all  
29 or a specified portion of the tobacco settlement revenues  
30 directly to a person who has entered into a sales agreement  
31 under this article.

32 (b) Payment of service charges.--The office's payment of any  
33 service charges shall be subject to and dependent upon approval  
34 by the authority and the appropriation of funds by the General  
35 Assembly to the office for payment of any service charges.

36 (c) Amendment of agreement.--The service agreement may be  
37 amended or supplemented by the authority and the office in  
38 connection with a sales agreement under this article.

39 Section 2807. Submission of sales agreement.

40 A certified copy of a sales agreement entered into under this  
41 article shall be submitted to the Governor, State Treasurer,  
42 Office of the Budget, President pro tempore of the Senate,  
43 Minority Leader of the Senate, Speaker of the House of  
44 Representatives and Minority Leader of the House of  
45 Representatives promptly upon execution and delivery of the  
46 sales agreement.

47 Section 2808. Deposit of proceeds.

48 The net proceeds of a sales agreement entered into or bonds  
49 issued under this article, other than refunding bonds, exclusive  
50 of costs of issuance, reserves and other financing charges,  
51 shall be transferred by the authority to the State Treasurer for



1 deposit into the General Fund and shall be available for  
2 expenditure as provided in this article in accordance with  
3 appropriations by the General Assembly.

4 Section 2809. Limitation on appropriations.

5 The amount of annual payments from the Master Settlement  
6 Agreement that are pledged and certified by the secretary under  
7 section 2804 for the payment of principal and interest for bonds  
8 issued under this article or for payments required under a sales  
9 agreement under this article shall not be subject to  
10 appropriation under section 1713-A.1 of the act of April 9, 1929  
11 (P.L.343, No.176), known as The Fiscal Code.

12 Section 46. If all or a part of the net loss deduction under  
13 section 401(3)4(c) of the act has been deemed unconstitutional  
14 as a result of a decision by the Pennsylvania Supreme Court, the  
15 Secretary of Revenue shall submit a notice of the decision for  
16 publication in the Pennsylvania Bulletin.

17 Section 47. This act shall apply as follows:

18 (1) The following shall apply:

19 (i) Except as provided in subparagraph (ii),  
20 sections 213.2, 213.4 and 213.5 of the act shall apply to  
21 transactions that occur after March 31, 2018.

22 (ii) Sections 213.2, 213.4 and 213.5 of the act, as  
23 they relate to tangible personal property described in  
24 section 201(m)(2), shall apply to transactions that occur  
25 after March 31, 2019.

26 (2) The amendment or addition of the following  
27 provisions of the acts shall apply to petitions for refunds,  
28 petitions for reassessments and petitions for  
29 redeterminations filed with the department on or after 60  
30 days from the effective date of this section:

31 (i) Section 2702(a) and (a.1)(2).

32 (ii) Section 2704(a) and (b).

33 Section 48. Repeals are as follows:

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

37 (2) 12 Pa.C.S. Ch. 33 is repealed.

38 (3) The General Assembly declares that the repeal under  
39 paragraph (4) is necessary to effectuate the addition of  
40 Article XXIV of the act.

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

43 Section 49. This act shall take effect as follows:

44 (1) The following provisions shall take effect in 60  
45 days:

46 (i) The amendment or addition of sections 312, 316,  
47 316.1, 316.2, 317, 317.1, 317.2, 318, 318.1, 319, 319.1,  
48 320, 320.1, 321.2, the heading of Part VII-A of Article  
49 III, 324.1(c), 324.2, 324.4, 324.5, 335(f) and 352(f),

50 (h) and (j) of the act.

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

1 act.  
2 (ii) The addition of Part IV-A of Article IV of the  
3 act.  
4 (ii.1) The addition of Article XVII-A.1 of the act.  
5 (iii) The addition of the definitions of  
6 "deteriorated property" and "film production tax credit  
7 district" in section 1711-D of the act.  
8 (iv) The addition of section 1712-D(b.1) of the act.  
9 (v) The addition of section 1716.2-D of the act.  
10 (vi) The definition of "qualified tax liability" in  
11 section 1702-G of the act.  
12 (2) The following provisions shall take effect in 365  
13 days:  
14 (i) (Reserved).  
15 (ii) The addition of section 1904.3-B of the act.  
16 (3) The amendment or addition of section 401(3)4(c)(1)  
17 (A)(VI), (VII) and (VIII) and (2)(B)(VII) and (VIII) of the  
18 act shall take effect on the date of the publication of the  
19 notice under section 46 of this act.  
20 (4) (Reserved).  
21 (5) As follows:  
22 (i) Except as provided in subparagraph (ii),  
23 sections 213.2, 213.4 and 213.5 of the act shall take  
24 effect February 1, 2018.  
25 (ii) Sections 213.2, 213.4 and 213.5 of the act, as  
26 they relate to tangible personal property described in  
27 section 201(m)(2), shall take effect February 1, 2019.  
28 (6) The following provisions shall take effect  
29 immediately:  
30 (i) This section.  
31 (ii) The remainder of this act.