

AMENDMENTS TO HOUSE BILL NO. 952

Sponsor: SENATOR BROWNE

Printer's No. 1310

1 Amend Bill, page 1, lines 1 through 14, by striking out all
2 of said lines and inserting
3 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
4 act relating to tax reform and State taxation by codifying
5 and enumerating certain subjects of taxation and imposing
6 taxes thereon; providing procedures for the payment,
7 collection, administration and enforcement thereof; providing
8 for tax credits in certain cases; conferring powers and
9 imposing duties upon the Department of Revenue, certain
10 employers, fiduciaries, individuals, persons, corporations
11 and other entities; prescribing crimes, offenses and
12 penalties," in sales and use tax, further providing for
13 exclusions from tax; in personal income tax, further
14 providing for classes of income, for withholding tax
15 requirement for nonemployer payors, for information statement
16 for nonemployer payors and for information statement for
17 payees, providing for electronic payment, further providing
18 for requirements concerning returns, notices, records and
19 statements and for additions, penalties and fees; in
20 corporate net income tax, further providing for definitions;
21 in bank and trust company shares tax, further providing for
22 definitions; in realty transfer tax, correcting a scrivener's
23 error relating to credits against tax; in tax credit
24 eligibility, further providing for definitions and for
25 eligibility and providing for application and administration,
26 for assessment, for administering agency training, for broker
27 registration, for tax credit and tax benefit reports, for
28 allocation of tax credits or tax benefits awarded upon appeal
29 and for guidelines; in research and development tax credit,
30 further providing for credit for research and development
31 expenses, for carryover, carryback, refund and assignment of
32 credit and for report to General Assembly; in entertainment
33 production tax credit, further providing for definitions, for
34 credit for qualified film production expenses, for reissuance
35 of film production tax credits, for definitions and for
36 limitations and providing for Pennsylvania live events
37 industry COVID-19 emergency assistance; in local resource
38 manufacturing tax credit, further providing for application

1 and approval of tax credit; in keystone opportunity zones,
2 keystone opportunity expansion zones and keystone opportunity
3 improvement zones, providing for extension for keystone
4 opportunity expansion zone and further providing for
5 additional keystone opportunity expansion zones; in mixed-use
6 development tax credit, further providing for mixed-use
7 development tax credits; in keystone innovations zones,
8 further providing for keystone innovation zone tax credits
9 and for annual report; in Pennsylvania Housing Tax Credit,
10 further providing for Pennsylvania Housing Tax Credit and for
11 annual report; in table game taxes, repealing provisions
12 relating to expiration; in procedure and administration,
13 further providing for petition for reassessment, for petition
14 procedure and for review by board; in computer data center
15 equipment incentive program, further providing for
16 definitions and providing for applicability and for sales and
17 use tax exemption program; in general provisions, further
18 providing for bad checks, electronic funds transfers not
19 credited upon transmission, additions to tax; imposing duties
20 on the Department of Revenue; and making editorial changes.

21 Amend Bill, page 1, lines 17 through 22; pages 2 through 14,
22 lines 1 through 30; page 15, lines 1 through 27; by striking out
23 all of said lines on said pages and inserting

24 Section 1. The General Assembly finds and declares as
25 follows:

26 (1) An error appeared in the publication of section 8 of
27 the act of July 2, 1986 (P.L.318, No.77): The amendment of
28 the definition of "document" in section 1101-C of the act of
29 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
30 1971, used the word "devises" instead of the word "demises"
31 and the word "devise" instead of the word "demise."

32 (2) An error appeared in the publication of section 11
33 of Act 77 of 1986: The addition of section 1102-C.4 of the
34 Tax Reform Code of 1971, used the word "devise" instead of
35 the word "demise."

36 (3) An error appeared in the publication of section 12
37 of Act 77 of 1986: The addition of section 1103-C(c) of the
38 Tax Reform Code of 1971, used the word "devise" instead of
39 the word "demise" and the word "devised" instead of the word
40 "demised."

41 (4) The publication of the official law, without a
42 footnote, does not match the enrolled bill nor comport with
43 the interpretive regulation of the Department of Revenue at
44 61 Pa. Code §§ 91.111(a) (relating to imposition of tax on
45 documents) and 91.112(a) (relating to statement of value).

46 (5) The errors are corrected by the amendment of the
47 definition of "document" in section 1101-C and sections 1102-
48 C.4 and 1103-C(c) of the Tax Reform Code of 1971.

1 Section 2. Section 204(67) and (68) of the act of March 4,
2 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
3 amended and the section is amended by adding clauses to read:

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

6 * * *

7 (67) The sale at retail or use of repair or replacement
8 parts or software or software upgrades, including the
9 installation of those parts, software or software upgrades,
10 exclusively for use in helicopters and similar rotorcraft and
11 flight simulators or in overhauling or rebuilding of helicopters
12 and similar rotorcraft and flight simulators or helicopters and
13 similar rotorcraft and flight simulator components. For the
14 purposes of this clause, the term "flight simulator" shall mean
15 a device used for the training or instruction of an individual
16 on a helicopter and similar rotorcraft.

17 (68) The sale at retail or use or lease of helicopters and
18 similar rotorcraft[.], and flight simulators, as well as
19 training materials, operational documents and publications
20 relating to the use or operation of helicopters and similar
21 rotorcraft and flight simulators. For the purposes of this
22 clause, the term "flight simulator" shall mean a device used for
23 the training or instruction of an individual on a helicopter and
24 similar rotorcraft.

25 * * *

26 (74) The sale at retail or use of a multipurpose
27 agricultural vehicle operated for the benefit of or pursuant to
28 the operation of a farm owned or operated by the owner of the
29 vehicle or a business whose enterprises and activities are
30 considered part of farming. For the purposes of this clause, the
31 following terms or phrases shall have the following meanings:

32 "Multipurpose agricultural vehicle" shall mean a motor
33 vehicle exempt from registration in accordance with 75 Pa.C.S. §
34 1302(17) (relating to vehicles exempt from registration) which
35 is 66 inches or less in width and 2,000 pounds or less in dry
36 weight and which is used exclusively for agricultural operations
37 and only incidentally operated or moved upon the highways.

38 "Use of a multipurpose agricultural vehicle in farming" shall
39 mean repairing and maintaining buildings, including houses,
40 garages, barns, stables, greenhouses, mushroom houses and
41 storehouses, fences and stanchions permanently affixed to real
42 estate, as well as transporting farming personnel, collecting,
43 conveying or transporting property to be used in farming and
44 transporting or conveying the farm product after the final
45 farming operation, which includes, but does not extend beyond,
46 the operation of packaging for the ultimate consumer and
47 storage.

48 (75) The sale at retail or use of tangible personal property
49 manufactured for the purpose of initiating, supporting or
50 sustaining breast feeding.

51 Section 3. Section 303 of the act is amended by adding a

1 subsection to read:

2 Section 303. Classes of Income.--* * *

3 (a.10) The provisions of section 451(f) of the Internal
4 Revenue Code of 1986, as amended, shall be applicable.

5 Section 3.1. Sections 316.2(a), 317.1 and 317.2 of the act
6 are amended to read:

7 Section 316.2. Withholding Tax Requirement for Nonemployer
8 Payors.--(a) To the extent not already required to withhold tax
9 on payments under section 316.1, a person that:

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

14 (2) is required under section 335(f)(1) to file a copy of
15 form 1099-MISC or 1099-NEC with the department regarding the
16 payments;

17 shall deduct and withhold from the payments an amount equal to
18 the net amount of the payments multiplied by the tax rate
19 specified under section 302(b).

20 * * *

21 Section 317.1. Information Statement for Nonemployer
22 Payors.--Every payor required to deduct and withhold tax under
23 section 316.2 shall furnish to a payee to whom the payor has
24 paid income from sources within this Commonwealth during the
25 calendar year a copy of form 1099-MISC or 1099-NEC required
26 under section 335(f)(1). The copy of form 1099-MISC or 1099-NEC
27 required by this section for each calendar year shall be
28 forwarded to the payee on or before March 1 of the year
29 succeeding the calendar year.

30 Section 317.2. Information Statement for Payees.--Every
31 payee receiving a copy of form 1099-MISC or 1099-NEC from a
32 payor under section 317.1 shall file a duplicate of such
33 information return with the payee's State income tax return.

34 Section 3.2. The act is amended by adding a section to read:

35 Section 332.1. Electronic Payment.--Any payment in the
36 amount of fifteen thousand dollars (\$15,000) or more remitted to
37 the department for the tax imposed under this article shall be
38 remitted electronically as prescribed by the department. This
39 section shall not apply to employer withholding payments under
40 Part VII of this article and section 9 of the act of April 9,
41 1929 (P.L.343, No.176), known as "The Fiscal Code."

42 Section 4. Section 335(f)(1) and (2) of the act are amended
43 to read:

44 Section 335. Requirements Concerning Returns, Notices,
45 Records and Statements.--* * *

46 (f) The following apply:

47 (1) Any person who:

48 (i) makes payments of Pennsylvania source income that fall
49 within any of the eight classes of income enumerated in section
50 303(a);

51 (ii) makes such payments to an individual, an entity treated

1 as a partnership for tax purposes or a single member limited
2 liability company; and
3 (iii) is required to make a form 1099-MISC or 1099-NEC
4 return to the Secretary of the Treasury of the United States
5 with respect to such payments, shall file a copy of such form
6 1099-MISC or 1099-NEC with the department [and send a copy of
7 such form 1099-MISC to the payee by March 1 of each year or, if
8 filed electronically, by March 31 of each year] on the due date
9 of the form 1099-MISC or 1099-NEC. If the form 1099-MISC or
10 1099-NEC filed by a payor with the Secretary of the Treasury of
11 the United States [is not completed in such a manner that] does
12 not include the State income and State tax withheld
13 [information, currently boxes 16 through 18 on Federal form
14 1099-MISC, is reflected thereon] as required under section
15 316.2, the payor shall update the copies of form 1099-MISC or
16 1099-NEC to be provided pursuant to this section to reflect such
17 information prior to filing it with the department and sending
18 it to the payee.

19 (2) If the payor is required to perform electronic filing
20 for Pennsylvania employer withholding purposes, the form 1099-
21 MISC or 1099-NEC shall be filed electronically with the
22 department.

23 * * *

24 Section 5. Section 352(f)(4) and (5) of the act are amended
25 and the section is amended by adding a subsection to read:

26 Section 352. Additions, Penalties and Fees.--* * *

27 (f) * * *

28 (4) Any person required to file a copy of form 1099-MISC or
29 1099-NEC with the department under the provisions of section
30 335(f) who wilfully furnishes a false or fraudulent form or who
31 wilfully fails to file the form in the manner, at the time and
32 showing the information required under section 335(f) shall, for
33 each such failure, be subject to a penalty of fifty dollars
34 (\$50).

35 (5) Any person required under the provisions of section
36 335(f) to furnish a copy of form 1099-MISC or 1099-NEC to a
37 payee who wilfully furnishes a false or fraudulent form or who
38 wilfully fails to furnish a form in the manner, at the time and
39 showing the information required by section 335(f) shall, for
40 each such failure, be subject to a penalty of fifty dollars
41 (\$50).

42 * * *

43 (k) If a tax payment is made and the payment does not comply
44 with section 332.1 when required, the taxpayer that is liable
45 for the tax shall, in addition to any other penalty, interest or
46 addition provided by law, be liable for a penalty of three per
47 cent of the payment remitted not to exceed five hundred dollars
48 (\$500).

49 Section 6. Section 407.6(a)(5) of the act is amended to
50 read:

51 Section 407.6. Definitions.--(a) For the purposes of this

1 part only, the following words, terms and phrases shall have the
2 meaning ascribed to them in this subsection, except where the
3 context clearly indicates a different meaning:

4 * * *

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. The deduction shall be applied to the taxable
9 income of the taxpayer to reduce a qualified tax liability of
10 the taxpayer following the allocation and apportionment of the
11 income of the taxpayer.

12 * * *

13 Section 7. The definition of "receipts" in section 701.5 of
14 the act is amended to read:

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

19 * * *

20 "Receipts." The total of all items of income reported on the
21 income statement of the institution's Reports of Condition at
22 the end of the preceding calendar year. If there is a
23 combination of two or more institutions into one, the total of
24 all items of income that would be reported on the income
25 statements of the Reports of Condition of the constituent
26 institutions shall be combined as if a single institution had
27 been in existence for the year. For purposes of this definition,
28 a combination shall include any acquisition required to be
29 accounted for by using the purchase method in accordance with
30 generally accepted accounting principles or a statutory merger
31 or consolidation. If the institution does not file quarterly
32 Reports of Condition, the term shall include all items of income
33 included on an income statement determined in accordance with
34 generally accepted accounting principles for the preceding
35 calendar year.

36 * * *

37 Section 8. The definition of "document" in section 1101-C of
38 the act is amended to read:

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

42 * * *

43 "Document." Any deed, instrument or writing which conveys,
44 transfers, [devises] demises, vests, confirms or evidences any
45 transfer or [devise] demise of title to real estate in this
46 Commonwealth, but does not include wills, mortgages, deeds of
47 trust or other instruments of like character given as security
48 for a debt and deeds of release thereof to the debtor, land
49 contracts whereby the legal title does not pass to the grantee
50 until the total consideration specified in the contract has been
51 paid or any cancellation thereof unless the consideration is

1 payable over a period of time exceeding thirty years or
2 instruments which solely grant, vest or confirm a public utility
3 easement. "Document" shall also include a declaration of
4 acquisition required to be presented for recording under section
5 1102-C.5 of this article.

6 * * *

7 Section 9. Sections 1102-C.4 and 1103-C(c) of the act are
8 amended to read:

9 Section 1102-C.4. Documents Relating to Associations or
10 Corporations and Members, Partners, Stockholders or Shareholders
11 Thereof.--Except as otherwise provided in sections 1102-C.3 and
12 1102-C.5, documents which make, confirm or evidence any transfer
13 or [devise] demise of title to real estate between associations
14 or corporations and the members, partners, shareholders or
15 stockholders thereof are fully taxable. For the purposes of this
16 article, corporations and associations are entities separate
17 from their members, partners, stockholders or shareholders.

18 Section 1103-C. Credits Against Tax.--* * *

19 (c) Where there is a transfer of real estate which is
20 [devised] demised by the grantor, a credit for the amount of tax
21 paid at the time of the [devise] demise shall be given the
22 grantor toward the tax due upon the transfer.

23 * * *

24 Section 10. The heading of Article XVII-A.1 of the act is
25 amended to read:

26 ARTICLE XVII-A.1

27 TAX CREDIT [ELIGIBILITY] AND TAX BENEFIT ADMINISTRATION

28 Section 11. The definition of "tax credit" in section 1701-
29 A.1 of the act is amended and the section is amended by adding
30 definitions to read:

31 Section 1701-A.1. Definitions.

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

35 "Administering agency." A department, board or commission
36 that administers a tax credit or tax benefit as required by a
37 law of this Commonwealth. The term does not include a keystone
38 innovation zone coordinator under Article XIX-F.

39 "Applicant." A person applying to an administering agency
40 for a tax credit or a tax benefit.

41 "Application." An application submitted to an administering
42 agency by an applicant for a tax credit or tax benefit. The term
43 includes a transfer application and supplemental documentation
44 required to be provided by an applicant, including reports,
45 returns and statements.

46 "Broker." A person that engages in the business of
47 effectuating transactions in tax credits for the account of
48 others, including assisting a taxpayer to apply for, sell,
49 transfer, assign or purchase a tax credit. The term includes an
50 entity and all of the following that perform similar functions
51 for the entity:

1 (1) A partner, officer or director of the entity.
2 (2) An affiliate of the entity.
3 (3) Any other person occupying a similar status of the
4 entity.
5 * * *
6 "Person." Any individual, employer, association, fiduciary,
7 partnership, corporation, entity, estate or trust, whether a
8 resident or nonresident of this Commonwealth.
9 "Program year." The annual period in which the tax credit or
10 tax benefit operates.
11 "Recipient." A person that is sold, assigned or transferred
12 a transferrable tax credit.
13 "Tax benefit." For purposes of this article, a tax benefit
14 authorized under any of the following:
15 (1) Article XVII-A.
16 (2) Article XVIII-C.
17 (3) Article XIX-B.
18 (4) Article XIX-D.
19 (5) Article XXIX-C.
20 (6) Article XXIX-D.
21 (7) The act of October 6, 1998 (P.L.705, No.92), known
22 as the Keystone Opportunity Zone, Keystone Opportunity
23 Expansion Zone and Keystone Opportunity Improvement Zone Act.
24 "Tax credit." A tax credit authorized under any of the
25 following:
26 (1) Article XVII-B.
27 (2) Article XVII-D.
28 (3) Article XVII-E.
29 (4) Article XVII-G.
30 (5) Article XVII-H.
31 (6) Article XVII-I.
32 (7) Article XVII-J.
33 (8) Article XVII-K.
34 (8.1) Article XVII-L.
35 (9) Article XVIII.
36 (10) Article XVIII-B.
37 (11) Article XVIII-D.
38 (12) Article XVIII-E.
39 (13) Article XVIII-F.
40 (14) Article XVIII-G.
41 (14.1) Article XVIII-H.
42 (15) Article XIX-A.
43 (15.1) Article XIX-C.
44 (16) Article XIX-E.
45 (16.1) Article XIX-F.
46 (17) Section 2010.
47 [(18) Article XXIX-D.]
48 (19) Article XX-B of the act of March 10, 1949 (P.L.30,
49 No.14), known as the Public School Code of 1949.
50 (20) The act of December 1, 2004 (P.L.1750, No.226),
51 known as the First Class Cities Economic Development District

1 Act.

2 (21) 12 Pa.C.S. Ch. 34 (relating to Infrastructure and
3 Facilities Improvement Program).

4 (22) Any other program established by a law of this
5 Commonwealth in which a person applies for and receives a
6 credit against a tax. This paragraph shall not apply to a
7 credit against a tax liability as a result of an overpayment.

8 "Taxpayer." A person that was approved for a tax credit or
9 tax benefit or that received a transferrable tax credit by sale,
10 assignment or transfer.

11 "Transfer application." An application submitted to the
12 department or the administering agency by an applicant or a
13 recipient as part of the sale, assignment or transfer of a
14 transferrable tax credit to a recipient.

15 "Transferrable tax credit." A tax credit which may be sold,
16 assigned or transferred from an applicant to a different
17 taxpayer. The term includes a tax credit which may be
18 transferred to a shareholder, member or partner of an applicant.

19 Section 12. Section 1702-A.1 of the act is amended to read:
20 Section 1702-A.1. [Eligibility.] Determination of eligibility
21 and method of submission.

22 (a) Tax reports and returns.--Except as otherwise provided
23 by law, before a tax credit [can] or tax benefit may be awarded,
24 the department [may] or administering agency, as applicable,
25 shall make a finding that [the taxpayer] an applicant or a
26 recipient has filed all required State tax reports and returns
27 for all applicable taxable years and paid any balance of State
28 tax due as determined at settlement or assessment by the
29 department, unless the tax due is [currently] under appeal at
30 the time the finding was made by the department or administering
31 agency.

32 (b) [(Reserved).] Notification.--For a tax credit authorized
33 under Article XX-B of the act of March 10, 1949 (P.L.30, No.14),
34 known as the Public School Code of 1949, the department shall
35 notify the Department of Community and Economic Development of
36 any finding required under subsection (a) within 30 days of the
37 Department of Community and Economic Development receiving a
38 completed application.

39 (c) Electronic applications.--The department or
40 administering agency, as applicable, may require an application
41 for a tax credit or tax benefit to be filed electronically.

42 Section 13. The act is amended by adding sections to read:
43 Section 1703-A.1. Application and administration.

44 (a) Insufficient application.--If an administering agency
45 finds that an application is insufficient for the administering
46 agency to determine whether the applicant is eligible to receive
47 a tax credit or tax benefit, the department, in consultation
48 with the administering agency, may do all of the following for
49 applicants other than individuals who own less than 20% of the
50 applicant:

51 (1) Require the submission of additional documentation

1 or verification which verifies material in the application.
2 Additional documentation or verification required under this
3 paragraph may include any of the following:

4 (i) A copy of the photo identification of the
5 applicant's or recipient's chief executive officer and
6 any authorized representative responsible for submitting
7 the application. A copy of photo identification under
8 this subparagraph shall include the individual's name and
9 address.

10 (ii) Bank account statements relating to the
11 business.

12 (iii) Business records, including receipts and
13 expenditures.

14 (iv) Business origination documents, including
15 articles of incorporation, partnership or reference to
16 documents under this subparagraph in records of the
17 Department of State or similar entity in another
18 jurisdiction.

19 (v) Any other information required by the department
20 or administering agency to determine that the applicant
21 is eligible to receive a tax credit or tax benefit with
22 the application.

23 (2) For an applicant that is not an individual, require
24 that the applicant or broker meet for a virtual or in-person
25 interview with representatives or agents of the department or
26 the administering agency to verify the contents of the
27 application.

28 (3) For an applicant that is not an individual, require
29 the applicant or broker to agree to submit to scheduled or
30 unscheduled site inspections by the department, the
31 administering agency or representatives or agents of the
32 department or administering agency. If the site is located in
33 an area where unscheduled site visits are not feasible, the
34 department or administering agency shall provide sufficient
35 notice prior to the visit. The department shall establish a
36 policy to ensure the confidentiality of information collected
37 or observed during a site inspection. The policy shall
38 include a prohibition on the taking of photos, video and
39 audio recordings which are not related to the subjects
40 regulated by the department.

41 (b) Risk criteria.--The department and an administering
42 agency may jointly develop risk scoring criteria to determine
43 when an applicant other than an individual who owns less than
44 20% of the applicant may be required to do any of the following:

45 (1) As a condition of approval of the application, one
46 of the following:

47 (i) If the amount of the tax credit or tax benefit
48 is equal to or exceeds \$100,000, hire an independent
49 auditor to prepare audited financial statements. The
50 independent auditor under this subparagraph shall be a
51 certified public accountant.

1 (ii) If the amount of the tax credit or tax benefit
2 is less than \$100,000, provide an agreed-upon procedure
3 report or a certification-of-costs report prepared by an
4 independent certified public accountant.

5 (2) Provide information which shall be included in the
6 audited financial statements under paragraph (1)(i) or
7 agreed-upon procedure report or certification-of-costs report
8 under paragraph (1)(ii) to be submitted to the department.

9 (3) Require the audited financial statements under
10 paragraph (1)(i) or agreed-upon procedure report or
11 certification-of-costs report under paragraph (1)(ii) be
12 submitted to the department.

13 (c) Reports.--After approval and until a tax credit or tax
14 benefit is fully used, an applicant that is approved for a tax
15 credit or tax benefit shall file an annual report with the
16 department or administering agency detailing all of the
17 following, to the extent that the following is applicable to the
18 tax credit or tax benefit:

19 (1) For a transferrable tax credit, all of the
20 following:

21 (i) Whether the applicant used, sold, assigned or
22 transferred a portion or all of the tax credit in the
23 prior program year.

24 (ii) Whether the tax credit was sold, assigned or
25 transferred for consideration in the prior program year
26 and the name of the recipient.

27 (iii) If the tax credit was sold, assigned or
28 transferred for consideration, the amount of the
29 consideration.

30 (iv) If the tax credit was sold, assigned or
31 transferred for consideration, whether the sale,
32 assignment or transfer was conducted with the assistance
33 of a broker and the name and registration number of the
34 broker.

35 (2) If applicable, an itemization of expenses and jobs
36 generated as a result of the receipt of the tax credit or tax
37 benefit.

38 (3) Any other information that the department or
39 administering agency deems necessary.

40 (d) Submission of data.--The department or administering
41 agency shall provide the information submitted under subsection
42 (c)(2) to the Independent Fiscal Office for use in preparing a
43 tax credit report under section 5 of the act of October 30, 2017
44 (P.L.797, No.48), known as the Performance-Based Budgeting and
45 Tax Credit Efficiency Act.
46 Section 1704-A.1. Assessment.

47 (a) General rule.--The department may issue an assessment
48 against a taxpayer if the department determines that a tax
49 credit or tax benefit was improperly issued or the benefits of
50 the tax credit or tax benefit were improperly conferred.

51 (b) Transferred tax credit assessment.--If a tax credit is

1 sold, transferred or assigned to a bona fide purchaser for
2 consideration, the department may issue an assessment authorized
3 by subsection (a) against the applicant and the broker which
4 signed the certification required by section 1706-A.1(g). An
5 applicant and broker shall be jointly and severally liable for
6 an assessment under this subsection.

7 (c) Liability restrictions.--A broker shall not be held
8 jointly and severally liable for the amount due when the broker
9 is purchasing or selling a tax credit or tax benefit in which
10 the broker did not sign the certification required under section
11 1706-A.1(g) for the initial tax credit or tax benefit
12 application. A broker under this subsection shall be liable only
13 for the financial amount reported to the department on the
14 program transfer application.

15 (d) Amount.--An assessment authorized by subsection (a)
16 shall not exceed the face value of the tax credit or tax benefit
17 or the benefits of the tax credit or tax benefit sold,
18 transferred, assigned or otherwise improperly conferred and
19 applicable interest.

20 (e) Procedures.--The procedures, collection, enforcement and
21 appeals of an assessment made under subsection (a) or (b) shall
22 be subject to Part X of Article III, except that the limitations
23 on assessment and collection under section 348 shall not apply.

24 (f) Limitations.--

25 (1) Except as provided under paragraph (2), the
26 department must issue an assessment under subsections (a) or
27 (b) within three years of the date the tax credit or tax
28 benefit is awarded or within three years of the date the tax
29 credit is sold, transferred or assigned, whichever is later.

30 (2) If a taxpayer obtains a tax credit or tax benefit by
31 fraud, the department may issue an assessment under
32 subsection (a) or (b) at any time.

33 (3) If a broker is determined to have acted in good
34 faith and was not negligent in duties regarding the
35 information provided to the broker by the taxpayer, the
36 department may not make an assessment against the broker.
37 Section 1705-A.1. Administering agency training.

38 (a) Training.--An administering agency shall provide agency
39 employees, representatives and agents of the administering
40 agency that assist applicants with applications with training on
41 all of the following:

42 (1) The requirements for a tax credit or tax benefit.

43 (2) Advising an applicant that has been issued a tax
44 credit or tax benefit of the duty of the applicant to file
45 reports concerning use of the tax credit or tax benefit as
46 required by the laws of this Commonwealth.

47 (3) Conducting site inspections to verify compliance
48 with the requirements relating to application for and
49 issuance of a tax credit or tax benefit.

50 (4) Conducting scheduled and unscheduled visits to the
51 site of a taxpayer to ensure compliance with the requirements

1 of the tax credit or tax benefit.

2 (b) (Reserved).

3 Section 1706-A.1. Broker registration.

4 (a) Registration required.--A person that acts as a broker
5 shall register with the department under this section. An agent
6 or other party representing a broker or assisting a broker on
7 behalf of an applicant, including a person that executes an
8 application for an applicant, or the sale, assignment or
9 transfer of a transferrable tax credit shall register under this
10 section.

11 (b) Guidelines.--The department, in consultation with the
12 Department of Community and Economic Development, shall
13 establish guidelines providing for the application and
14 registration of a broker under this section. The guidelines
15 shall require all of the following:

16 (1) The name and address of the broker.

17 (2) The name and address of the business with which the
18 broker is employed or otherwise associated that is located
19 and maintaining a place of business in this Commonwealth.

20 (3) That the broker be at least 18 years of age.

21 (4) The minimum educational requirements, qualifications
22 and experience necessary for the issuance of a registration
23 under this section.

24 (5) A criminal background check prepared by the
25 Pennsylvania State Police that demonstrates the broker has
26 not been convicted of a felony offense or an offense that
27 involved fraud or misrepresentation in this Commonwealth or
28 any other jurisdiction.

29 (6) A list of each professional license that has been
30 issued to the broker and whether the broker is in good
31 standing with the licensing authority.

32 (7) Verification that the application is submitted in
33 accordance with 18 Pa.C.S. §§ 4903 (relating to false
34 swearing) and 4904 (relating to unsworn falsification to
35 authorities).

36 (8) Payment of any required application, licensing and
37 registration fees.

38 (9) Tax clearance showing satisfaction of all State and
39 local taxes.

40 (c) Applications.--A broker shall obtain an initial or
41 renewed registration by filing an application with the
42 department, providing the renewal information and documentation
43 and paying all fees as required by the department.

44 (d) Duration of registration.--A registration under this
45 section shall be valid for a period of two years from the date
46 of issuance.

47 (e) Registration number.--A registration under this section
48 shall include a unique registration number for the broker. A
49 registration under this section may be suspended or revoked by
50 the department for good cause.

51 (f) Appeals.--A broker who is denied a registration under

1 this section, or whose registration is suspended or revoked, may
2 appeal the department's determination in the same manner as
3 provided by Article XXVII.

4 (g) Attachment of certification.--A broker executing the
5 sale of a transferrable tax credit or assisting an applicant or
6 a taxpayer to apply for or purchase a tax credit shall do all of
7 the following:

8 (1) Attach a certification to the application that the
9 statements and representations made in the application are
10 true and correct and subject to the penalties as set forth in
11 18 Pa.C.S. § 4903 or 4904.

12 (2) Include the broker's unique registration number
13 issued by the department in the certification under this
14 subsection.

15 (h) Fees.--The department may require the payment of an
16 application fee to review and process a registration under this
17 subsection.

18 (i) Penalties.--A person who violates the requirements
19 specified under this section shall pay a civil fine of up to
20 \$25,000 for the first offense and up to \$50,000 for each
21 additional offense to the department.

22 (j) Bond required.--A broker registered under this section
23 shall post a bond of \$50,000 with the department.
24 Section 1707-A.1. Tax credit and tax benefit reports.

25 (a) Reports.--Notwithstanding any law providing for the
26 confidentiality of tax credits, beginning with the first program
27 year which begins after the effective date of this section and
28 each program year thereafter, the administering agency shall
29 publish a report for each tax credit or tax benefit, which shall
30 include the following information:

31 (1) The name of each applicant that received a tax
32 credit or tax benefit in the prior program year.

33 (2) For a tax credit, the amount of tax credit awarded
34 to each applicant.

35 (3) For a transferrable tax credit, whether an applicant
36 under paragraph (1) sold, assigned or transferred a
37 transferrable tax credit in the prior program year.

38 (4) If applicable, a summary of the data submitted under
39 section 1703-A.1(c)(2).

40 (5) If available to the administering agency, all of the
41 following relating to a transferrable tax credit:

42 (i) The name of the recipient to which the
43 transferrable tax credit under paragraph (3) was sold,
44 assigned or transferred in the prior program year. The
45 name of an individual receiving a transferrable tax
46 credit without consideration from a pass-through entity
47 in which the individual is a shareholder, member or
48 partner shall not be published.

49 (ii) The amount of the transferrable tax credit
50 under paragraph (3) that was sold, assigned or
51 transferred.

1 (iii) The price for which a tax credit under
2 paragraph (2) was sold, assigned or transferred.

3 (b) Publication.--

4 (1) Except as provided under paragraph (2), an
5 administering agency shall publish a report on each tax
6 credit or tax benefit under subsection (a) on the
7 administering agency's publicly available Internet website no
8 later than 45 days after the end of a program year.

9 (2) If an administering agency is required by a law of
10 this Commonwealth to prepare an annual report on the tax
11 credit or tax benefit, the information under subsection (a)
12 shall be included in the annual report required by the law of
13 this Commonwealth.

14 Section 1708-A.1. Allocation of tax credits or tax benefits
15 awarded upon appeal.

16 (a) Appeal.--If an administering agency denies an
17 applicant's application for a tax credit or tax benefit program,
18 the applicant may appeal the administering agency's
19 determination in the same manner as provided by Article XXVII.

20 (b) Awarding of tax credit or tax benefit upon appeal.--The
21 following shall apply to an allocation of tax credits awarded
22 upon the final resolution of an appeal:

23 (1) If an applicant is awarded a tax credit which is
24 subject to a total annual limitation, upon the final
25 resolution of an appeal after the full allocation of credits
26 available for a fiscal year is completely expended, the
27 administering agency shall include the awarded tax credit
28 within the distribution of tax credits in the next program
29 year after the resolution of the appeal for which an amount
30 for allocation is available.

31 (2) When awarding a tax credit to an applicant under
32 paragraph (1), the administering agency shall apply any
33 reduction in the awarded tax credit amount as was applied in
34 the program year for which the credit was denied if the
35 reduction was applied due to the total credits applied for
36 exceeding the amount of credits allocated for the program
37 year.

38 (3) When awarding a tax credit to an applicant under
39 paragraph (1), the administering agency shall reduce the
40 total amount of credits available for allocation in the next
41 program year by the amount of credits awarded.

42 (4) The awarded tax credits under paragraph (1) shall
43 apply for the program year in which the credit was denied.

44 (c) Appeal.--If the Department of Community and Economic
45 Development denies an applicant's application for a tax credit
46 or tax benefit program, the applicant may appeal in a manner
47 established by the Department of Community and Economic
48 Development.

49 (d) Definition.--As used in this section, the term
50 "administering agency" does not include the Department of
51 Community and Economic Development.

1 Section 1709-A.1. Guidelines.

2 The department shall establish guidelines for the
3 implementation of this article.

4 Section 14. Sections 1703-B(a) and (c), 1704-B(a) and (b)
5 and 1711-B of the act are amended to read:

6 Section 1703-B. Credit for Research and Development

7 Expenses.--(a) A taxpayer who incurs Pennsylvania qualified
8 research and development expense in a taxable year may apply for
9 a research and development tax credit as provided in this
10 article. By [September 15] December 1, a taxpayer must submit an
11 application to the department for Pennsylvania qualified
12 research and development expense incurred in the taxable year
13 that ended in the prior calendar year.

14 * * *

15 (c) By [December 15 of the] May 1 of the second calendar
16 year following the close of the taxable year during which the
17 Pennsylvania qualified research and development expense was
18 incurred, the department shall notify the taxpayer of the amount
19 of the taxpayer's research and development tax credit approved
20 by the department.

21 Section 1704-B. Carryover, Carryback, Refund and Assignment
22 of Credit.--(a) If the taxpayer cannot use the entire amount of
23 the research and development tax credit for the first taxable
24 year in which the taxpayer applied for a research and
25 development tax credit [is first approved], then the excess may
26 be carried over to succeeding taxable years and used as a credit
27 against the qualified tax liability of the taxpayer for those
28 taxable years. Each time that the research and development tax
29 credit is carried over to a succeeding taxable year, it is to be
30 reduced by the amount that was used as a credit during the
31 immediately preceding taxable year. The research and development
32 tax credit provided by this article may be carried over and
33 applied to succeeding taxable years for no more than fifteen
34 taxable years following the first taxable year for which the
35 taxpayer was entitled to claim the credit.

36 (b) A research and development tax credit approved by the
37 department for Pennsylvania qualified research and development
38 expense in a taxable year first shall be applied against the
39 taxpayer's qualified tax liability for the current taxable year
40 as of the date on which the [credit was approved] taxpayer
41 applied for the credit before the research and development tax
42 credit is applied against any tax liability under subsection
43 (a).

44 * * *

45 Section 1711-B. Report to General Assembly.--The secretary
46 shall submit an annual report to the General Assembly indicating
47 the effectiveness of the credit provided by this article no
48 later than [March 15 following the] October 1 following the
49 calendar year in which the credits were approved. The report
50 shall include the names of all taxpayers utilizing the credit as
51 of the date of the report and the amount of credits approved and

1 utilized by each taxpayer. Notwithstanding any law providing for
2 the confidentiality of tax records, the information contained in
3 the report shall be public information. The report may also
4 include any recommendations for changes in the calculation or
5 administration of the credit.

6 Section 15. Section 1711-D of the act is amended by adding a
7 definition to read:

8 Section 1711-D. Definitions.

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

12 * * *

13 "Multifilm." A series of separate and distinct films
14 produced by the same taxpayer over a period of no less than one
15 year and no more than four years from the time of application.

16 * * *

17 Section 16. Sections 1712-D(b) and 1716.1-D(a) of the act
18 are amended by adding paragraphs to read:

19 Section 1712-D. Credit for qualified film production
20 expenses.

21 * * *

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

26 * * *

27 (7.1) If a multifilm application is submitted, the
28 department shall consider the ability of the taxpayer to
29 produce multiple films within this Commonwealth during the
30 proposed period of production and the potential economic
31 impact, including tourism impact, of the multiple films to
32 this Commonwealth.

33 * * *

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

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

37 * * *

38 (4) If an individual film that was issued a tax credit
39 as part of a multifilm application is canceled, the
40 department may reissue that tax credit only after allowing
41 the taxpayer 90 days to submit an application for an
42 alternative individual film, produced by the taxpayer for
43 that tax credit. The department may approve or reject the
44 application.

45 * * *

46 Section 17. The definitions of "concert tour equipment,"
47 "recipient," "taxpayer," "tour," "tour expense" and "venue" in
48 section 1772-D of the act are amended and the section is amended
49 by adding definitions to read:

50 Section 1772-D. Definitions.

51 The following words and phrases when used in this subarticle

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

3 * * *

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

10 * * *

11 "Pennsylvania live events industry." A qualified rehearsal
12 facility, vendors of concert tour equipment located and
13 maintaining a place of business in this Commonwealth, venues
14 located in this Commonwealth and any promoter of live
15 performances located and maintaining a place of business in this
16 Commonwealth.

17 * * *

18 "Personal protective equipment." Includes equipment,
19 services and supplies necessary to screen, test, shield or
20 protect performers or individuals from health pathogens during a
21 rehearsal, streaming performance or tour. The term includes
22 costs associated with cleaning and disinfecting qualified
23 rehearsal facilities and venues used on a tour and costs
24 associated with complying with safety-protocols established to
25 combat COVID-19 and other health pathogens.

26 * * *

27 "Recipient." A taxpayer that has been awarded a tax credit
28 under section 1773-D(e) or 1782-D(e).

29 * * *

30 "Streaming performance." A live performance which is
31 performed at a qualified rehearsal facility to be remotely
32 viewed by individuals. The term includes streaming and
33 broadcasting of a performance.

34 * * *

35 "Taxpayer." A musical performer or performers or a concert
36 tour management company of a musical performer or performers
37 subject to tax under Article III, IV or VI. The term does not
38 include contractors or subcontractors of a musical performer or
39 performers or of a concert tour management company of a musical
40 performer or performers. For fiscal years beginning July 1,
41 2021, and ending June 30, 2023, the term also includes a
42 management company of a professional sports league, a news
43 broadcasting station, a production company, a creative agency or
44 a broadcaster, subject to tax under Article III or IV.

45 "Tour." A series of concerts performed or to be performed by
46 a musical performer in more than one location. The term includes
47 at least one rehearsal. For fiscal years beginning July 1, 2021,
48 and ending June 30, 2023, the term also includes a streaming
49 performance.

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

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

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

22 (vi) The cost of food and lodging which is incurred
23 or will be incurred from a facility located in this
24 Commonwealth.

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

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

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

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

41 (1.1) The cost of concert tour equipment not used during
42 rehearsal but used for an entire tour if the concert tour
43 equipment is purchased or will be purchased from a company
44 maintaining a place of business in this Commonwealth and
45 subject to the tax imposed under Article III or IV. The term
46 includes the cost of personal protective equipment which is
47 purchased or will be purchased from a company located within
48 this Commonwealth and used on the tour.

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

51 "Venue." A class 1, class 2 or class 3 venue. For fiscal

1 years beginning July 1, 2021, and ending June 30, 2023, the term
2 also includes a qualified rehearsal facility when used for a
3 streaming performance.

4 Section 18. Section 1777-D(a) and (b) of the act are amended
5 to read:

6 Section 1777-D. Limitations.

7 (a) Cap.--

8 (1) The aggregate amount of tax credits awarded in a
9 fiscal year under this subarticle may not exceed \$8,000,000.

10 (2) In a fiscal year, the department may, in the
11 department's discretion, advance the award of tax credits for
12 qualified rehearsal and tour expenses incurred or to be
13 incurred equal to \$2,000,000 of the tax credits available to
14 be awarded in the succeeding fiscal year.

15 (3) If, in a fiscal year, the maximum amount of credits
16 authorized by this subsection are not awarded by the
17 department, the department may increase the total amount of
18 tax credits that the department may award for qualified
19 rehearsal and tour expenses incurred or to be incurred
20 related to a tour in the immediately succeeding fiscal year
21 by the amount that was not awarded in the preceding fiscal
22 year.

23 (b) Advance award of credits.--The advance award of tax
24 credits under subsection [(a)] (a)(2) shall:

25 (1) count against the total amount of tax credits that
26 the department may award for qualified rehearsal and tour
27 expenses incurred or to be incurred related to a tour in that
28 next succeeding fiscal year; and

29 (2) reduce the total amount of tax credits that the
30 department may award for qualified rehearsal and tour
31 expenses incurred or to be incurred related to a tour in that
32 next succeeding fiscal year.

33 * * *

34 Section 19. The act is amended by adding a section to read:
35 Section 1782-D. Pennsylvania live events industry COVID-19
36 emergency assistance.

37 (a) Intent.--It is the intent of the General Assembly to
38 assist the Pennsylvania live events industry which has been
39 severely impacted by the COVID-19 virus by providing a temporary
40 procedure to further encourage live event performers to purchase
41 Pennsylvania products and services while safely entertaining
42 residents of this Commonwealth.

43 (b) Application.--For fiscal years beginning July 1, 2021,
44 and ending June 30, 2023, and notwithstanding section 1773-D, a
45 taxpayer may apply to the department for a tax credit related
46 to a streaming performance under this section. The application
47 shall be on the form required by the department.

48 (c) Review and approval.--

49 (1) The department shall establish application periods
50 not to exceed 10 days on a bimonthly basis. All applications
51 received during an application period shall be reviewed and

1 evaluated by the department based on the following criteria:

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

4 (ii) The anticipated number of streaming
5 performances.

6 (iii) The anticipated amount of Pennsylvania
7 rehearsal and tour expenses.

8 (iv) The anticipated amount of the concert tour
9 equipment expenses which are or will be purchased or
10 rented from companies located and maintaining a place of
11 business in this Commonwealth and which will be used for
12 the rehearsal and streaming performances.

13 (v) The anticipated amount of the concert tour
14 equipment expenses which are not or will not be purchased
15 or rented from companies located and maintaining a place
16 of business in this Commonwealth and which will be used
17 for the rehearsal and streaming performances.

18 (vi) The anticipated number of days spent in
19 Commonwealth hotels.

20 (vii) Other criteria that the department deems
21 appropriate to ensure maximum employment opportunities
22 and entertainment benefits for the residents of this
23 Commonwealth.

24 (2) The department may approve the taxpayer for a tax
25 credit upon determining all of the following:

26 (i) That the taxpayer has paid the applicable
27 application fee, not to exceed \$300.

28 (ii) That the taxpayer has met or will meet all of
29 the following:

30 (A) Has or will rehearse at a qualified
31 rehearsal facility for a minimum of seven days.

32 (B) Has or will perform at least one streaming
33 performance at a qualified rehearsal facility.

34 (C) Has incurred or will incur Pennsylvania
35 rehearsal and tour expenses in an amount of at least
36 \$300,000 from companies located and maintaining a
37 place of business in this Commonwealth.

38 (D) Has or will purchase or rent concert tour
39 equipment to be delivered to a qualified rehearsal
40 facility in an amount of at least \$225,000 from
41 companies located and maintaining a place of business
42 in this Commonwealth.

43 (E) Has or will purchase or rent at least 70% of
44 the concert tour equipment to be used for the
45 rehearsal and any streaming performances from
46 companies located and maintaining a place of business
47 in this Commonwealth.

48 (F) Maintains a place of business in this
49 Commonwealth or employs a representative for the
50 period beginning with the start date and ending with
51 the award of tax certificates under this section.

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

4 (1) The start date or the expected start date.

5 (2) With respect to a contract entered into prior to
6 completion of a streaming performance, a commitment by the
7 taxpayer to hold at least one streaming performance at a
8 qualified rehearsal facility.

9 (3) With respect to a contract entered into prior to
10 completion of a streaming performance, a commitment by the
11 taxpayer to incur the Pennsylvania rehearsal and tour
12 expenses as itemized.

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

15 (e) Certificate.--Upon execution of the contract required by
16 subsection (d), the department shall award the taxpayer a tax
17 credit and issue the recipient a tax credit certificate.

18 (f) Limitations.--

19 (1) A taxpayer may not be awarded more than 25% of
20 Pennsylvania rehearsal and tour expenses the taxpayer
21 incurred or will incur for a tour.

22 (2) A taxpayer may not be awarded more than \$250,000 of
23 tax credits for a tour.

24 (g) Cap.--Any award of tax credits made under this section
25 shall count against and reduce the total amount of tax credits
26 that the department may award under section 1777-D(a) for
27 qualified rehearsal and tour expenses incurred or to be incurred
28 related to a tour in that fiscal year.

29 Section 19.1. Section 1704-L(d) of the act, added July 23,
30 2020 (P.L.654, No.66), is amended to read:

31 Section 1704-L. Application and approval of tax credit.

32 * * *

33 (d) Availability of tax credits.--

34 (1) Each fiscal year, \$26,666,668 in tax credits shall
35 be made available to the department in accordance with this
36 article.

37 (2) No more than [four] two qualified taxpayers shall
38 receive a tax credit annually, for a maximum credit of
39 \$6,666,667 each.

40 (3) The department[, at its discretion, may] shall issue
41 unallocated credits to [a] no more than one qualified
42 taxpayer, notwithstanding the maximum credit limit under
43 paragraph (2) [.] if the qualified taxpayer:

44 (i) has made a total capital investment of at least
45 \$1,000,000,000 in order to construct the project facility
46 and place the project facility into service in this
47 Commonwealth;

48 (ii) has created a minimum aggregate total of 1,800
49 new jobs and permanent jobs; and

50 (iii) has satisfied all other eligibility
51 requirements for a qualified taxpayer under this article.

1 (4) For purposes of paragraph (3), the term "unallocated
2 credits" means the difference between tax credits authorized
3 under paragraph (1) and approved under paragraph (2).

4 Section 20. The act is amended by adding a section to read:
5 Section 1913-D. Extension for keystone opportunity expansion
6 zone.

7 (a) General rule.--The department may approve an application
8 to grant an extension for a parcel located within a keystone
9 opportunity zone, keystone opportunity expansion zone or
10 keystone opportunity improvement zone upon application by a
11 political subdivision.

12 (b) Application.--This section shall apply to a parcel
13 located within a keystone opportunity zone, keystone opportunity
14 expansion zone or keystone opportunity improvement zone that
15 expires in 2022, if the parcel is located within a county of the
16 third class with a population of at least 350,000 but less than
17 410,000 based on the 2010 Federal decennial census.

18 (c) Extension period.--An extension granted under this
19 section shall be for a period of five years.

20 Section 21. Sections 1921-D(d), 1907-E(a), 1906-F(b) and (d)
21 and 1908-F of the act are amended to read:

22 Section 1921-D. Additional keystone opportunity expansion
23 zones.

24 * * *

25 (d) Application.--

26 (1) In order to receive a designation under this
27 section, the department must receive an application from a
28 political subdivision or its designee no later than October
29 1, [2021] 2022. The application must contain the information
30 required under section 302(a)(1), (2)(i) and (ix), (5) and
31 (6) of the KOZ Act.

32 (2) The department, in consultation with the Department
33 of Revenue, shall review the application and, if approved,
34 issue a certification of all tax exemptions, deductions,
35 abatements or credits under this act for the zone within
36 three months of receipt of the application.

37 (3) The department shall act on an application for a
38 designation under section 302(a)(1) of the KOZ Act by
39 December 31, [2021] 2022.

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

42 * * *

43 Section 1907-E. Mixed-use development tax credits.

44 (a) Tax credit authority.--For purposes, and in accordance
45 with the provisions of this article, the agency may allocate an
46 amount not to exceed [\$3,000,000] \$4,500,000 in each fiscal year
47 in mixed-use development tax credits and is directed to deposit
48 proceeds and earnings derived from the sale into the fund.

49 * * *

50 Section 1906-F. Keystone innovation zone tax credits.

51 * * *

1 (b) Application for tax credit.--A KIZ company may file an
2 application for a tax credit with the department. An application
3 under this subsection must be filed by [September 15 of each
4 year for the prior taxable year, beginning September 15, 2006]
5 December 1 for the prior tax year. The application must be
6 submitted on a form required by the department and must be
7 accompanied by a certification from the KIZ coordinator that the
8 KIZ company falls within a targeted industry segment identified
9 in the strategic plan adopted by the KIZ partnership, and meet
10 any other requirements specified by the department. The
11 department shall review the application and, upon being
12 satisfied that all requirements have been met, the department
13 shall issue a tax credit certificate to the KIZ company. All
14 certificates shall be awarded by [December 15 of each year] May
15 1 of each year following the calendar year of application.

16 * * *

17 (d) Application of tax credit and election.--A tax credit
18 approved under this section must be first applied against the
19 KIZ company's tax liability under Article III, IV or VI, for the
20 taxable year [during] in which the taxpayer applied for the tax
21 credit [is approved]. If the amount of tax liability owed by the
22 KIZ company is less than the amount of the tax credit, the KIZ
23 company may elect to carry forward the amount of the remaining
24 tax credit for a period not to exceed four additional taxable
25 years and to apply the credit against tax liability incurred
26 during those tax years; or the KIZ company may elect to sell or
27 assign a portion of the tax credit in accordance with the
28 provisions of subsection (f). A KIZ company may not carry back
29 or obtain a refund of an unused keystone innovation zone tax
30 credit.

31 * * *

32 Section 1908-F. Annual report.

33 The department shall submit an annual report to the Secretary
34 of the Senate and the Chief Clerk of the House of
35 Representatives indicating the effectiveness of the keystone
36 innovation zone tax credit provided by this article by [December
37 31 of each year, beginning December 31, 2007] October 1 of each
38 year following the calendar year of application. Notwithstanding
39 any law providing for the confidentiality of tax records, the
40 report shall include the names of all taxpayers awarded the
41 credits, all taxpayers utilizing the credits, the amount of
42 credits approved and utilized by each taxpayer and the locations
43 of the KIZ companies awarded the credits. The report shall be a
44 public document.

45 Section 21.1. Sections 1903-G(b), (c) and (d) and 1910-G(a)
46 of the act, added November 3, 2020 (P.L.1704, No.107), are
47 amended to read:

48 Section 1903-G. Pennsylvania Housing Tax Credit.

49 * * *

50 (b) Availability.--[Tax credits may not be awarded under
51 this article until the notice under subsection (c.1) is

1 published.]

2 (1) Beginning in fiscal year 2021-2022 and each fiscal
3 year thereafter, the agency may award a total of \$10,000,000
4 in tax credits per fiscal year in accordance with this
5 article.

6 (2) In addition to the amount allocated under paragraph
7 (1), the agency may award any unallocated tax credits from
8 the preceding fiscal year.

9 (c) Maximum amount.--[(Reserved).] No taxpayer may be
10 awarded a tax credit for an amount that exceeds \$1,500,000 for a
11 qualified low-income housing project.

12 [(c.1) Notice.--Upon an enactment after the effective date
13 of this subsection to make an amount of tax credits available
14 under this article, the Secretary of the Budget shall submit a
15 notice to the Legislative Reference Bureau for publication in
16 the Pennsylvania Bulletin.]

17 (d) Application.--

18 [(1) The agency may not accept applications for a tax
19 credit under this section until the notice under subsection
20 (c.1) is published.]

21 (1.1) A taxpayer may apply to the agency for a tax
22 credit under this section by submitting an application on a
23 form required by the agency.

24 (2) The agency may require such information on the
25 application as necessary to verify compliance with this act.

26 (3) Except as otherwise provided by law, before the tax
27 credit may be awarded, the department must find that the
28 taxpayer has filed all required State tax reports and returns
29 for all applicable tax years and paid any balance of State
30 tax due as determined at settlement or assessment by the
31 department, unless the tax due is currently under appeal.

32 * * *

33 Section 1910-G. Annual report.

34 (a) Duty of agency.--[By the first September 30 of the
35 calendar year after the notice under 1903-G(c.1) is published
36 and each September 30 thereafter,] On or before October 1, 2022,
37 and each October 1 thereafter, the agency shall submit a report
38 on the tax credit to the chairperson and minority chairperson of
39 the Appropriations Committee of the Senate, the chairperson and
40 minority chairperson of the Appropriations Committee of the
41 House of Representatives, the chairperson and minority
42 chairperson of the Urban Affairs and Housing Committee of the
43 Senate and the chairperson and minority chairperson of the Urban
44 Affairs Committee of the House of Representatives. The report
45 shall include the following information for the prior fiscal
46 year:

47 (1) The number and amount of tax credits awarded [in the
48 prior fiscal year].

49 (2) The taxpayers that were awarded tax credits [in the
50 prior fiscal year].

51 (3) The amount of tax credits issued to each taxpayer

1 [in the prior fiscal year].

2 * * *

3 Section 21.2. Section 2503 of the act is repealed:

4 [Section 2503. Expiration.

5 (a) Expiration.--This article shall expire August 1, 2021.]

6 Section 22. Section 2702 of the act is amended by adding a
7 subsection to read:

8 Section 2702. Petition for reassessment.

9 * * *

10 (a.2) Petition for review of denial of tax credit or tax
11 benefit.--The following apply:

12 (1) A petition for reassessment under subsection (a) may
13 include a request for review of a denial of an application
14 for a tax credit or tax benefit made by an administering
15 agency.

16 (2) The administering agency shall have the right to be
17 represented in all proceedings before the department. An
18 applicant filing a petition under paragraph (1) shall provide
19 a copy of the petition to the administering agency within 30
20 days of the applicant filing the petition with the
21 department.

22 (3) The department's review of a petition filed under
23 paragraph (1) shall be limited to the administering agency's
24 denial of a tax credit or tax benefit and shall not include a
25 review of any underlying tax determinations.

26 (4) For the purposes of this subsection:

27 (i) The terms "applicant," "tax benefit" and "tax
28 credit" shall have the same meaning as in section 1701-
29 A.1.

30 (ii) The term administering agency shall have the
31 same meaning as in section 1701-A.1 but shall not include
32 the Department of Community and Economic Development.

33 * * *

34 Section 23. Section 2703(a) is amended by adding paragraphs
35 and the section is amended by adding a subsection to read:

36 Section 2703. Petition procedure.

37 (a) Content of petition.--

38 * * *

39 (2.2) A petition for review of tax adjustment not
40 resulting in an increase in liability shall state:

41 (i) The tax type and tax periods included within the
42 petition.

43 (ii) The amount of the tax that the taxpayer claims
44 to have been erroneously adjusted.

45 (iii) The basis upon which the taxpayer claims that
46 the adjustment is erroneous.

47 (2.3) A petition for review of denial of tax credit or
48 tax benefit shall state:

49 (i) The tax credit or tax benefit program for which
50 the applicant was denied.

51 (ii) The amount of the tax credit or tax benefit

1 that the taxpayer claims to have been erroneously denied.
2 (iii) The basis upon which the taxpayer claims that
3 the denial is erroneous.

4 * * *

5 (b.1) Participation of administering agency.--An
6 administering agency of a tax credit or tax benefit shall be
7 permitted to participate in a hearing before the department.
8 The department shall notify the administering agency of the
9 date, time and place where the hearing will be held. The
10 administering agency shall be provided the opportunity to
11 comment upon any submitted evidence and provide written and oral
12 argument to support its denial.

13 * * *

14 Section 24. Section 2704(d.1) of the act is amended by
15 adding a paragraph to read:

16 Section 2704. Review by board.

17 * * *

18 (d.1) Representation.--

19 * * *

20 (3) An administering agency of a tax credit or tax
21 benefit shall be permitted to participate in all proceedings
22 before the board. The board shall notify the administering
23 agency of the date, time and place where the hearing will be
24 held. The administering agency shall be provided the
25 opportunity to comment upon any submitted evidence and
26 provide written and oral argument to support its denial.

27 * * *

28 Section 25. Article XXIX-D of the act is amended by adding a
29 subarticle heading to read:

30 SUBARTICLE A

31 PRELIMINARY PROVISIONS

32 Section 26. The definition of "tax refund" in section 2901-D
33 of the act is amended and the section is amended by adding
34 definitions to read:

35 Section 2901-D. Definitions.

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

39 * * *

40 "Tax exemption." The tax exemption provided under Subarticle
41 C.

42 "Tax refund." The tax refund provided for under [this
43 article] Subarticle B.

44 "Telecommunications provider." A provider of
45 telecommunications services as defined in 61 Pa. Code § 60.20
46 (relating to telecommunications service).

47 * * *

48 Section 27. Article XXIX-D of the act is amended by adding a
49 subarticle heading to read:

50 SUBARTICLE B

51 SALES AND USE TAX REFUND PROGRAM

1 Section 28. Section 2902-D of the act is renumbered to read:
2 Section [2902-D] 2911-D. Sales and use tax refund.

3 (a) Application.--Beginning July 1, 2017, an owner or
4 operator or qualified tenant of a computer data center certified
5 under this article may apply for a tax refund of taxes paid
6 under Article II upon the sale at retail or use of computer data
7 center equipment for installation in a computer data center,
8 purchased by:

9 (1) An owner or operator of a computer data center
10 certified under this article.

11 (2) A qualified tenant certified under this article.

12 (b) Applicability.--Taxes paid under Article II during the
13 qualification period shall be eligible for a refund under this
14 article.

15 (c) Exclusions.--The following do not qualify for a tax
16 refund:

17 (1) Computer data center equipment used by the computer
18 data center to:

19 (i) generate electricity for resale purposes to a
20 power utility, except for sales incidental to the primary
21 sale to computer data centers and which qualify under
22 subparagraph (ii); or

23 (ii) generate, provide or sell more than 5% of its
24 electricity outside of the computer data center.

25 (2) (Reserved).

26 Section 29. Sections 2903-D, 2904-D and 2905-D of the act
27 are renumbered and amended to read:

28 Section [2903-D] 2912-D. Application for certification.

29 To be considered for a certification, an owner or operator of
30 a computer data center shall submit to the department an
31 application on a form prescribed by the department that includes
32 the following:

33 (1) The owner's or operator's name, address and
34 telephone number.

35 (2) The address of the site where the facility is or
36 will be located, including, if applicable, information
37 sufficient to identify the specific portion or portions of
38 the facility comprising the computer data center.

39 (3) If the computer data center is to qualify under
40 section [2906-D(1)] 2915-D(1), the following information:

41 (i) The anticipated investment associated with the
42 computer data center for which the certification is being
43 sought.

44 (ii) An affirmation, signed by an authorized
45 executive representing the owner or operator, that the
46 computer data center is expected to satisfy the
47 certification requirements prescribed in section [2906-
48 D(1)] 2915-D(1).

49 (4) If the computer data center is to qualify under
50 section [2906-D(2)] 2915-D(2), an affirmation, signed by an
51 authorized executive representing the owner or operator, that

1 the computer data center has satisfied, or will satisfy, the
2 certification requirements prescribed in section [~~2906-D(2)~~]
3 2915-D(2).

4 (5) The department shall begin accepting applications no
5 later than 90 days after the effective date of this section.
6 Section [~~2904-D~~] 2913-D. Review of application.

7 (a) General rule.--Within 60 days after receiving a complete
8 and correct application, the department shall review the
9 application and either issue a written certification that the
10 computer data center qualifies for the certification or provide
11 written reasons for its denial.

12 (b) Deemed approval.--Failure of the department to approve
13 or deny an application within 60 days after the date the owner
14 or operator of a computer data center submits the application to
15 the department constitutes certification of the computer data
16 center, and the department shall issue written certification to
17 the owner or operator within 14 days. The department may not
18 certify any computer data center after December 31, [~~2029~~] 2021.
19 Section [~~2905-D~~] 2914-D. Separation of facilities.

20 (a) Separate certification.--An owner or operator of a
21 computer data center may separate a facility into one or more
22 computer data centers, which may each receive a separate
23 certification, if each computer data center individually meets
24 the requirements prescribed in section [~~2906-D~~] 2915-D.

25 (b) Limitation.--A portion of a facility or an article of
26 computer data equipment shall not be deemed to be a part of more
27 than one computer data center.

28 (c) Aggregation.--An owner or operator may aggregate one or
29 more parcels, buildings or condominiums in a facility into a
30 single computer data center if, in the aggregate, the parcels,
31 buildings and condominiums meet the requirements of this
32 article.

33 Section 30. Section 2906-D of the act is renumbered to read:
34 Section [~~2906-D~~] 2915-D. Eligibility requirements.

35 A computer data center must meet one of the following
36 requirements, after taking into account the combined investments
37 made and annual compensation paid by the owner or operator of
38 the computer data center or the qualified tenant:

39 (1) On or before the fourth anniversary of
40 certification, the computer data center creates a minimum
41 investment of:

42 (i) At least \$25,000,000 of new investment if the
43 computer data center is located in a county with a
44 population of 250,000 or fewer individuals; or

45 (ii) At least \$50,000,000 of new investment if the
46 computer data center is located in a county with a
47 population of more than 250,000 individuals.

48 (2) One or more taxpayers operating or occupying a
49 computer data center, in the aggregate, pay annual
50 compensation of at least \$1,000,000 to employees at the
51 certified computer data center site for each year of the

1 certification after the fourth anniversary of certification.
2 Section 31. Sections 2907-D and 2908-D of the act are
3 renumbered and amended to read:

4 Section [2907-D] 2916-D. Notification.

5 (a) Requirements satisfied.--On or before the fourth
6 anniversary of the certification of a computer data center, the
7 owner or operator of a computer data center shall notify the
8 department in writing whether the computer data center for which
9 the certification is requested has satisfied the requirements
10 prescribed in section [2906-D] 2915-D.

11 (b) Records.--Until a computer data center satisfies the
12 requirements prescribed in section [2906-D] 2915-D, the owner,
13 operator and qualified tenants shall maintain detailed records
14 of all investments created by the computer data center,
15 including costs of buildings and computer data center equipment,
16 and all tax refunds directly received by the owner, operator or
17 qualified tenant.

18 Section [2908-D] 2917-D. Revocation of certification.

19 (a) Revocation.--If the department determines that the
20 requirements of section [2906-D] 2915-D have not been satisfied,
21 the department may revoke the certification of a computer data
22 center.

23 (b) Appeal.--The owner or operator of the computer data
24 center may appeal the revocation. Appeals filed under this
25 section shall be governed by Article II.

26 (c) Recapture.--If certification is revoked pursuant to this
27 section, the qualification period of any owner, operator or
28 qualified tenant of the computer data center expires, and the
29 department may recapture from the owner, operator or qualified
30 tenant all or part of the tax refund provided directly to the
31 owner or operator or qualified tenant. The department may give
32 special consideration or allow a temporary exemption from
33 recapture of the tax refund if there is extraordinary hardship
34 due to factors beyond the control of the owner or operator or
35 qualified tenant.

36 Section 32. Section 2909-D of the act is renumbered to read:
37 Section [2909-D] 2918-D. Guidelines.

38 The department shall publish guidelines and prescribe forms
39 and procedures as necessary for the purposes of this article.

40 Section 33. Section 2910-D of the act is renumbered and
41 amended to read:

42 Section [2910-D] 2919-D. Confidential information.

43 Proprietary business information contained in the application
44 form described in section [2903-D] 2912-D and the written notice
45 described in section [2907-D] 2916-D, as well as information
46 concerning the identity of a qualified tenant, are confidential
47 and may not be disclosed to the public. The department may
48 disclose the name of a computer data center that has been
49 certified under this article.

50 Section 34. Section 2911-D of the act is renumbered to read:
51 Section [2911-D] 2920-D. List of tenants.

1 An owner or operator of a computer data center shall provide,
2 to the extent permissible under Federal law, the department with
3 a list of qualified tenants, including the commencement and
4 expiration dates of each qualified tenant's agreement to use or
5 occupy part of the computer data center. The list shall be
6 provided to the department annually, upon request by the
7 department.

8 Section 35. Section 2912-D of the act is renumbered and
9 amended to read:

10 Section [2912-D] 2921-D. Sale or transfer.

11 Except as provided in section [2908-D] 2917-D, a computer
12 data center retains its certification regardless of a transfer,
13 sale or other disposition, directly or indirectly, of the
14 computer data center.

15 Section 36. Sections 2913-D and 2914-D of the act are
16 renumbered to read:

17 Section [2913-D] 2922-D. Application.

18 (a) General rule.--An owner, operator or qualified tenant
19 may apply for a tax refund under this article on or before July
20 30, 2017, and each July 30 thereafter.

21 (b) Notification.--No later than September 30, 2017, and
22 each September 30 thereafter, the department shall notify each
23 applicant of the amount of tax refund approved by the
24 department.

25 Section [2914-D] 2923-D. Limitations.

26 (a) Total.--The total amount of State tax refunds approved
27 by the department under this article shall not exceed \$7,000,000
28 in any fiscal year.

29 (b) Allocation.--If the total amount of tax refunds approved
30 for all applicants exceeds the limitation on the amount of tax
31 refunds in subsection (a) in a fiscal year, the tax refund to be
32 received by each applicant shall be determined as follows:

33 (1) Divide:

34 (i) the tax refund approved for the applicant; by

35 (ii) the total of all tax refunds approved for all

36 applicants.

37 (2) Multiply:

38 (i) the amount under subsection (a); by

39 (ii) the quotient under paragraph (1).

40 (3) The algebraic form of the calculation under this
41 subsection is:

42 Taxpayer's tax refund = amount allocated for those
43 tax refunds X (tax refund approved for the
44 applicant/total of all tax refunds approved for all
45 applicants).

46 Section 37. Article XXIX-D of the act is amended by adding a
47 section to read:

48 Section 2924-D. Applicability.

49 Notwithstanding any other provision of this article, the
50 department may not issue a tax refund under this subarticle for
51 the tax imposed upon the sale at retail or use of computer data

1 center equipment purchased after December 31, 2021.

2 Section 38. Article XXIX-D of the act is amended by adding a
3 subarticle to read:

4 SUBARTICLE C

5 SALES AND USE TAX EXEMPTION PROGRAM

6 Section 2931-D. Sales and use tax exemption.

7 (a) Sales and use tax.--Beginning January 1, 2022, the tax
8 imposed under Article II shall not be imposed upon the sale at
9 retail or use of computer data center equipment purchased for
10 installation in a certified computer data center, if purchased
11 by any of the following:

12 (1) An owner or operator of a computer data center
13 certified under this subarticle.

14 (2) A qualified tenant of a computer data center
15 certified under this subarticle.

16 (b) Applicability.--A tax exemption approved under this
17 subarticle shall apply during the qualification period as
18 provided under section 2942-D.

19 (c) Exclusions.--The following shall not qualify for a tax
20 exemption:

21 (1) A telecommunications provider's computer data center
22 that does not have retail or wholesale customers being billed
23 or paying for services and does provide a majority of
24 services for internal use or use by the telecommunications
25 provider's subsidiaries.

26 (2) Computer data center equipment used by the certified
27 computer data center for any of the following purposes:

28 (i) Generating electricity for resale purposes to a
29 power utility.

30 (ii) Generating, providing or selling more than 5%
31 of its electricity outside of the certified computer data
32 center.

33 (3) Laptop computers, handheld devices and motor
34 vehicles for use both inside and outside the computer data
35 center.

36 Section 2932-D. Application for certification.

37 (a) Application.--To be considered for a certification, an
38 owner or operator of a computer data center shall submit to the
39 department an application on a form prescribed by the department
40 that includes all of the following:

41 (1) The owner's or operator's name, address and
42 telephone number.

43 (2) The address of the site where the computer data
44 center is or will be located, including, if applicable,
45 information sufficient to identify the specific portion of a
46 facility comprising the computer data center.

47 (3) An affirmation, signed by an authorized executive
48 representing the owner or operator, that the computer data
49 center is expected to satisfy the certification requirements
50 prescribed under section 2935-D.

51 (b) Acceptance.--The department shall begin accepting

1 applications no later than 60 days after the effective date of
2 this section.

3 (c) Compliance in reporting.--An owner or operator or
4 qualified tenant eligible for a certification shall comply with
5 all reporting, filing and compliance requirements under this
6 act.

7 (d) Compliance in tax laws.--No owner or operator or
8 qualified tenant may receive a certification under this
9 subarticle unless that owner or operator or qualified tenant is
10 in full compliance with all State tax laws.

11 Section 2933-D. Review of application.

12 (a) General rule.--Within 60 days after receiving a complete
13 and correct application, the department shall review the
14 application and either issue a written certification that the
15 computer data center qualifies for the certification or provide
16 written reasons for its denial.

17 (b) Deemed approval.--Failure of the department to approve
18 or deny an application that has been acknowledged as received by
19 the department, within 60 days after the date the owner or
20 operator of a computer data center submits the application to
21 the department shall constitute certification of the computer
22 data center, and the department shall issue written
23 certification to the owner or operator within 14 days.

24 Section 2934-D. Separation of facilities.

25 (a) Separate certification.--An owner or operator of a
26 computer data center may separate a facility into one or more
27 computer data centers, which may each receive a separate
28 certification, if each computer data center individually meets
29 the requirements prescribed in section 2935-D.

30 (b) Limitation.--A portion of a facility or an article of
31 computer data equipment shall not be deemed to be a part of more
32 than one computer data center for certification under this
33 subarticle.

34 (c) Aggregation.--An owner or operator may aggregate one or
35 more parcels, buildings or condominiums in a facility into a
36 single computer data center for certification under this
37 subarticle if, in the aggregate, the parcels, buildings and
38 condominiums meet the requirements prescribed in section 2935-D.

39 Section 2935-D. Eligibility requirements.

40 (a) General rule.--In order to be certified under this
41 subarticle, an owner or operator of a computer data center must
42 meet all of the following requirements:

43 (1) On or before the fourth anniversary of
44 certification, the combined investment, in the aggregate, of
45 the owner or operator or qualified tenant of the computer
46 data center must total a minimum of any of the following:

47 (i) At least \$75,000,000 of new investment if the
48 computer data center is located in a county with a
49 population of 250,000 or fewer individuals and creates 25
50 new jobs.

51 (ii) At least \$100,000,000 of new investment if the

1 computer data center is located in a county with a
2 population of more than 250,000 individuals and creates
3 45 new jobs.

4 (2) On or before the fourth anniversary of
5 certification, the owner or operator or qualified tenant of a
6 computer data center, in the aggregate, must pay annual
7 compensation of at least \$1,000,000 to employees at the
8 certified computer data center site for each year of the
9 certification after the fourth anniversary of certification.

10 (b) Prior applications.--A computer data center that has met
11 the eligibility requirements as prescribed under section 2915-D
12 and has, prior to July 1, 2021, been certified under section
13 2913-D shall be deemed to meet the certification requirements of
14 this section. The certification shall not be revoked, except as
15 provided under section 2917-D, and shall remain in effect for
16 the remainder of the qualification period.

17 (c) Limitation.--The department may not certify any computer
18 data center under this subarticle after December 31, 2032.

19 (d) Definition.--As used in this section, the term "new
20 investment" means construction, expansion or build out of data
21 center space at either a new or an existing computer data center
22 on or after January 1, 2022, and the purchase and installation
23 of computer data center equipment, except for items described
24 under paragraph (4) of the definition of "computer data center
25 equipment" in section 2901-D.

26 Section 2936-D. Notification and records.

27 (a) Requirements satisfied.--On or before the fourth
28 anniversary of the certification of a computer data center, the
29 owner or operator of the computer data center shall notify the
30 department in writing whether the computer data center for which
31 the certification is requested has satisfied the requirements
32 prescribed under section 2935-D.

33 (b) Records.--The owner or operator or qualified tenant
34 shall:

35 (1) Maintain detailed records of all investments created
36 by the computer data center, including costs of buildings and
37 computer data center equipment and all tax exemptions
38 received by the owner or operator or qualified tenant.

39 (2) Maintain purchase journals for examination by the
40 department.

41 Section 2937-D. Revocation of certification.

42 (a) Revocation.--If the department determines that the
43 requirements of section 2935-D have not been satisfied, the
44 department may revoke the certification of a computer data
45 center.

46 (b) Appeal.--The owner or operator of the computer data
47 center may appeal the revocation. Appeals filed under this
48 section shall be governed by Article II.

49 (c) Recapture.--If certification is revoked under this
50 section, the qualification period of any owner or operator or
51 qualified tenant of the computer data center shall expire and

1 the department may recapture from the owner or operator or
2 qualified tenant all or part of the tax exemption received by
3 the owner or operator or qualified tenant under section 2942-D.
4 The department may give special consideration or allow a
5 temporary exemption from recapture of the tax exemption if there
6 is extraordinary hardship due to factors beyond the control of
7 the owner or operator or qualified tenant. The department may
8 require the owner or operator or qualified tenant to file
9 appropriate amended tax returns in order to reflect any
10 recapture of the tax exemption.

11 (d) Limitation on assessment.--Notwithstanding the
12 limitation on assessment and collection in section 258, the
13 department shall assess any tax determined not to be properly
14 exempted under this subarticle within five years from the date
15 an owner or operator or qualified tenant of a computer data
16 center purchases property exempt from a tax. A taxpayer may
17 consent to an extension of the period as set forth in section
18 261.

19 Section 2938-D. Guidelines.

20 The department shall publish guidelines and prescribe forms
21 and procedures as necessary for the purposes of this article.
22 Section 2939-D. Confidential information.

23 Proprietary business information contained in the application
24 form described under section 2932-D and the written notice
25 described under section 2936-D, as well as information
26 concerning the identity of a qualified tenant, shall be
27 confidential and may not be disclosed to the public. The
28 department may disclose the name of a computer data center that
29 has been certified under this subarticle.

30 Section 2940-D. List of tenants.

31 An owner or operator of a certified computer data center
32 shall provide, to the extent permissible under Federal law, the
33 department with a list of qualified tenants, including the
34 commencement and expiration dates of each qualified tenant's
35 agreement to use or occupy part of the certified computer data
36 center. The list shall be provided to the department annually,
37 upon request by the department.

38 Section 2941-D. Sale or transfer.

39 Except as provided under section 2937-D, a computer data
40 center retains its certification regardless of a transfer, sale
41 or other disposition, directly or indirectly, of the computer
42 data center.

43 Section 2942-D. Certificate of exemption.

44 (a) General rule.--A qualified owner or operator or
45 qualified tenant of a computer data center certified under this
46 subarticle may submit for a sales and use tax certificate of
47 exemption in a manner prescribed by the department on or before
48 October 1, 2021, and renew each October 1 thereafter. The
49 following shall apply:

50 (1) The owner or operator or qualified tenant of a
51 certified computer data center eligible for a sales and use

1 tax certificate of exemption shall comply with all reporting,
2 filing and compliance requirements under this act.

3 (2) No owner or operator or qualified tenant may receive
4 a sales and use tax certificate of exemption under this
5 subarticle unless that owner or operator or qualified tenant
6 is in full compliance with all State tax laws.

7 (b) Notification.--No later than 60 days after the
8 submission under subsection (a) for a sales and use tax
9 certificate of exemption, the department shall issue a sales and
10 use tax certificate of exemption to each applicant approved by
11 the department.

12 (c) Exempt purchases.--The owner or operator or qualified
13 tenant of a certified computer data center shall prepare and
14 deliver a properly executed sales and use tax certificate of
15 exemption to a vendor from which the owner or operator or
16 qualified tenant purchases exempt computer data center
17 equipment.

18 Section 39. Section 3003.9(a) of the act is amended to read:

19 Section 3003.9. Bad Checks; Electronic Funds Transfers Not
20 Credited Upon Transmission; Additions to Tax.--(a) If any check
21 in payment of any amount receivable under the laws of this
22 Commonwealth administered by the department is not paid upon
23 presentment, or any electronic funds transfer as payment of any
24 amount receivable under the laws of this Commonwealth
25 administered by the department is not credited upon
26 transmission, in addition to any interest or penalties provided
27 by law, the department shall charge the person who tendered the
28 check or authorized the electronic transmission an addition to
29 tax equal to ten per cent of the face amount of the check or
30 electronic funds transfer, plus interest and protest fees,
31 provided that the addition imposed by this section shall not
32 exceed [one thousand dollars (\$1,000)] one hundred dollars
33 (\$100) nor be less than twenty-five dollars (\$25).

34 * * *

35 Section 40. The following apply:

36 (1) The addition of section 204(74) and (75) shall apply
37 to sales at retail or uses after December 31, 2021.

38 (2) The addition of section 303(a.10) of the act shall
39 apply to taxable years beginning after December 31, 2020.

40 (3) The addition of sections 332.1 and 352(k) of the act
41 shall apply to payments made after December 31, 2021.

42 (4) The amendment of section 407.6(a)(5) of the act
43 shall apply to taxable years beginning after December 31,
44 2020.

45 (5) The amendment of section 1907-E(a) of the act shall
46 apply to fiscal years beginning after June 30, 2021.

47 Section 41. This act shall take effect as follows:

48 (1) The addition of sections 1772-D, 1777-D(a) and (b)
49 and 1782-D of the act shall take effect July 1, 2021, or
50 immediately, whichever is later.

51 (2) The following shall take effect in 30 days:

1 (i) The amendment or addition of Article XVII-A.1
2 heading and sections 1701-A.1, 1702-A.1, 1703-B(a) and
3 (c), 1704-B(a) and (b), 1711-B, 1711-D, 1712-D(b),
4 1716.1-D(a), 1906-F(b) and (d), 1908-F, 2702(a.2),
5 2703(a)(2.2) and (2.3) and (b.1) and 2704 (d.1)(3) of the
6 act.

7 (ii) The addition of sections 1703-A.1, 1704-A.1,
8 1705-A.1, 1707-A.1, 1708-A.1 and 1709-A.1 of the act.

9 (3) The amendment of section 204(67) and (68) of the act
10 shall take effect in 60 days.

11 (4) The amendment of section 3003.9(a) of the act shall
12 take effect in 120 days.

13 (5) The addition of section 1706-A.1 of the act shall
14 take effect in 180 days.

15 (6) The remainder of this act shall take effect
16 immediately.