AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for addiction prevention and treatment
11 assessment and establishing the Opioid Addiction Prevention
12 and Treatment Fund.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:
15
16 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
17 the Tax Reform Code of 1971, is amended by adding an article to
18 read:
19
20 ARTICLE XII-B
21 ADDICTION PREVENTION AND TREATMENT ASSESSMENT
22
23 Section 1201-B. Definitions.
24 The following words and phrases when used in this article
25 shall have the meanings given to them in this section unless the
26 context clearly indicates otherwise:
"Assessment." The addiction prevention and treatment assessment imposed under this article.

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

"Fund." The Opioid Addiction Prevention and Treatment Fund established under section 1210-B.

"Opioid product." A pharmaceutical drug containing opiates.

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

"Program." The Emergency Addiction Treatment Program established under 35 Pa.C.S. § 8304 (relating to Emergency Addiction Treatment Program).

"Purchase price." The total value of anything paid or delivered, or promised to be paid or delivered, money or otherwise, in complete performance of a sale or purchase, without any deduction on account of any of the following:

1. the cost or value of:
   (i) the property sold;
   (ii) transportation; or
   (iii) labor service;

2. interest or discount paid or allowed after the sale is consummated;

3. tax imposed by the Commonwealth; or
any other expense.

Section 1202-B. Addiction prevention and treatment assessment.

(a) Imposition of assessment.--An addiction prevention and

        treatment assessment shall be paid by a person that
        manufactures, produces, distributes, sells or offers to sell
        opioid products in this Commonwealth. The ultimate end user of
        an opioid product may not be required to pay any portion of the
        assessment under this section, either directly or indirectly.

(b) Imposition.--The assessment shall be imposed at the time
        each opioid product is first sold in this Commonwealth or for
        use in this Commonwealth at the rate of 10% of the purchase
        price charged to the initial buyer of the opioid product. The
        assessment shall be paid by the person selling the opioid
        product to the initial buyer within this Commonwealth and
        remitted to the department. A person required to remit the
        assessment shall separately state the amount of the assessment
        on an invoice or other sales document.

(c) Exceptions.--The assessment may not be imposed on opioid

        products that:

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

        (2) are not subject to taxation by the Commonwealth
        under any Federal law.

(d) Report and remittance of assessment.--

        (1) A person that manufactures, produces, distributes,
        sells or offers to sell opioid products in this Commonwealth
        or for use in this Commonwealth shall file monthly reports
        with the department by the 20th day of each calendar month
        commencing with the second calendar month following the
        effective date of this article. The report shall contain the
information listed in section 1207-B(b) for the previous
month.
(2) The assessment is due at the time the report is due.
(3) The department may require the filing of reports and
the remittance of the assessment on a less frequent basis at
its discretion.
(e) Other provisions.--Unless otherwise specifically noted,
the provisions of Article II, shall apply to the reports,
payments, penalties, enforcement, collections and appeals of the
assessment imposed under this section.
Section 1203-B. Powers and duties of department and
administration.
The department shall administer and enforce the provisions of
this article and shall adopt rules and regulations for those
purposes.
Section 1204-B. Assessment.
The department may make the inquiries, determinations and
valuations of the assessment, including interest, additions and
penalties, imposed by this article.
Section 1205-B. Electronic filing.
The department may require that a report required to be filed
under this article be filed electronically.
Section 1206-B. Extension of limitation period.
Notwithstanding any other provision of this article, where,
before the expiration of the period prescribed for the
assessment, a person has consented in writing that the period be
extended, the amount of the assessment due may be imposed by the
department at any time within the extended period. The extended
period may be extended further by subsequent consent in writing
made before the expiration of the extended period.
Section 1207-B. Reports, records and inspections.

(a) Reports of shipments and receipts of opioid products required.--The department may, at such times as it deems necessary, require a report from a common carrier or contract carrier who transports opioid products to any point or points within this Commonwealth, and from any bonded warehouseman or bailee who has in the possession of the warehouseman or bailee any opioid products. The report shall contain the information concerning shipments of opioid products that the department determines to be necessary for the administration and enforcement of this article. A common carrier or contract carrier, bailee and warehouseman shall permit the examination by the department or its authorized agents of any records relating to the shipment or receipt of opioid products.

(b) Records of manufacturers and wholesalers.--A person who sells opioid products subject to the assessment shall keep, on an annual basis, for a period of four years, records showing for each calendar year:

1. The number or units and pharmaceutical name or description of opioid products sold.
2. The date the opioid products were sold.
3. The name, address or other contact information, as may be required by the department, of the person to whom the opioid products were initially sold.
4. The purchase price charged to the initial buyer for each unit of opioid products sold.
5. The place to which the opioid products were shipped.
6. The name of the common carrier or contract carrier.

(c) Inspections.--The department is authorized to inspect the books and records, the stock of opioid products and the
premises and equipment of any person in order to verify the
accuracy of the payment of the assessment imposed by this
article. The person subject to an inspection shall give to the
department or its duly authorized representative the means,
facilities and opportunity for the inspection.

Section 1208-B. Information exchange.

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

Section 1209-B. Fines and penalties.

(a) Collection of assessment.--

(1) The amount of the assessment due and not remitted
may be imposed and collected by the department at any time
whenever transactions subject to the assessment are not
reported.

(2) If a person willfully files a false or fraudulent
report with the intent to evade the assessment, the amount of
the assessment due may be imposed and collected by the
department at any time.

(b) Failure to furnish information, returning false
information or failure to permit inspection.--

(1) A person who fails to keep or make a record, report,
inventory or statement or keeps or makes any false or
fraudulent record, report, inventory or statement required by
this article commits a misdemeanor and shall, upon
conviction, be sentenced to pay a fine of $500 or to
imprisonment for not more than one year, or both.

(2) A person who willfully refuses to cooperate with or
permit an inspection to the satisfaction of the department
commits a misdemeanor and shall, upon conviction, be
sentenced to pay a fine of $500 or to imprisonment for not
more than one year, or both.

(c) Penalties.--

(1) A person who sells an opioid product for which the
proper assessment has not been paid commits a summary offense
and shall, upon conviction, be sentenced to pay a fine of not
less than $100 nor more than $1,000 or to imprisonment for
not more than 60 days, or both.

(2) A person who falsely, fraudulently, maliciously,
intentionally or willfully, with intent to evade the payment
of the assessment, sells an opioid product for which the
proper assessment has not been paid commits a felony and
shall, upon conviction, be sentenced to pay a fine of not
more than $15,000 or to imprisonment for not more than five
years, or both.

(3) In addition to the penalties prescribed in
paragraphs (1) and (2), if a person fails to file the report
required under section 1202-B(d) or fails to pay the
assessment, the department may impose an administrative
penalty equal to the amount of the assessment not paid. The
penalty shall be added to the assessment not paid and imposed
and collected at the same time and in the same manner as the
assessment.

(d) Failure to electronically file.--A person who fails to
electronically file a report or other information that the
department directs to be filed electronically shall be subject
to a penalty of 5% of the assessment due on the report, up to a
maximum of $1,000, but not less than $10. The penalty may be
imposed at any time and collected in the manner provided in this
article. The penalty shall be in addition to any administrative
penalty imposed under subsection (c)(3). The criminal penalty for failure to file a report electronically shall be the same as the criminal penalty for failure to furnish information or file a report under subsection (b)(1).

(e) Fines and penalties payable to department.--All fines and penalties imposed and collected under the provisions of this article shall be payable to the Commonwealth and appropriated to the department to be used in carrying out its duties under this article.

Section 1210-B. Fund.

(a) Establishment.--The Opioid Addiction Prevention and Treatment Fund is established in the State Treasury. The department shall deposit the assessment remitted under section 1202-B into the fund. Money in the fund may not lapse and shall be appropriated on a continuing basis for the purposes set forth in this section.

(b) Distributions.--Money in the fund shall be distributed quarterly as follows:

(1) Fifty-five percent to the Department of Drug and Alcohol Programs to fund the implementation and administration of the program.

(2) Five percent to the Department of Drug and Alcohol Programs for grants for the purchase of naloxone for local police and first responders and the provision of training on the use of naloxone.

(3) Fifteen percent to the Department of Drug and Alcohol Programs to fund the following:

   (i) Drug and alcohol addiction counseling in county jails.

   (ii) Costs to the criminal justice system related to
drug and alcohol addiction.

(iii) Establishment and maintenance of procedures to ensure the transition of overdose survivors to addiction treatment programs.

(4) Five percent to the department to fund the activities under 35 Pa.C.S. Ch. 83 (relating to emergency addiction treatment).

(5) Four percent to the department to fund its other duties under this article.

(6) Seven and one-half percent to the Department of Education to fund grants to organizations as provided under section 1528 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(7) Seven and one-half percent to the Pennsylvania Higher Education Assistance Agency to fund the Alcohol and Drug Addiction Counselor Loan Forgiveness Program as provided for under the act of , (P.L. , No. ), known as the Alcohol and Drug Addiction Counselor Loan Forgiveness Program Act.

(8) One percent to the Department of Health to be used exclusively for prescription drug monitoring under the act of October 27, 2014 (P.L.2911, No.191), known as the Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) Act.

(c) Other funding.--Money distributed from the fund shall be used to supplement, and not to replace, other funding for drug and alcohol addiction treatment programs in this Commonwealth.

Section 2. This act shall take effect in 60 days.