

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 146 Session of 2003

INTRODUCED BY T. STEVENSON, BARRAR, CAPPELLI, CAUSER, CAWLEY, CREIGHTON, CRUZ, DeWEESE, FAIRCHILD, FICHTER, FLEAGLE, FRANKEL, GEIST, GORDNER, HUTCHINSON, LAUGHLIN, LEDERER, LEH, LEWIS, MANN, MARKOSEK, McCALL, McILHATTAN, McNAUGHTON, NICKOL, READSHAW, REICHLEY, ROSS, SAINATO, SATHER, SEMMEL, R. STEVENSON, E. Z. TAYLOR, TURZAI, WANSACZ, WRIGHT AND YUDICHAK, FEBRUARY 6, 2003

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 6, 2003

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," further providing for the sale or transfer of  
11 unused research and development tax credits.

12 The General Assembly finds and declares as follows:

13 (1) It is important to the Commonwealth that companies be  
14 encouraged to engage in research and development, to locate in  
15 Pennsylvania and to expand their operations in this  
16 Commonwealth.

17 (2) Many entities engaged in leading-edge research and  
18 development struggle to access much needed capital during their  
19 start-up years.

20 (3) Many entities engaged in research and development

1 activities currently are unable to take advantage of  
2 Pennsylvania's research and development tax credit.

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

5 Section 1. Section 1704-B(c) of the act of March 4, 1971  
6 (P.L.6, No.2), known as the Tax Reform Code of 1971, added May  
7 7, 1997 (P.L.85, No.7), is amended and the section is amended by  
8 adding subsections to read:

9 Section 1704-B. Carryover, Carryback, Refund and Assignment  
10 of Credit.--\* \* \*

11 (c) A taxpayer is not entitled to carry back, obtain a  
12 refund of or assign an unused research and development tax  
13 credit[.] except as provided in subsections (d), (e) and (f).

14 (d) The Department of Community and Economic Development in  
15 cooperation with the Department of Revenue shall establish a  
16 research and development tax credit repurchase program to allow  
17 entities with unused, but otherwise allowable, amounts of  
18 research and development tax credits to exchange such credits  
19 for a research and development repurchase credit as provided in  
20 subsection (e).

21 (e) (1) The Department of Community and Economic  
22 Development in cooperation with the Department of Revenue shall  
23 review and approve applications by taxpayers to surrender unused  
24 but otherwise allowable research and development tax credits.  
25 Upon approval of said applications, the Department of Revenue  
26 shall issue a research and development repurchase credit equal  
27 to seventy-five per cent of the amount of the surrendered tax  
28 credit.

29 (2) A research and development tax credit awarded beginning  
30 in the calendar year 2000 and in each calendar year thereafter

1 shall be eligible for the repurchase program provided the credit  
2 has remained unused for at least one year after the date of the  
3 award of the credit.

4 (3) The amount of research and development repurchase  
5 credits awarded in a fiscal year shall not exceed five million  
6 dollars (\$5,000,000).

7 (4) The Department of Community and Economic Development and  
8 the Department of Revenue shall develop criteria for the  
9 approval or disapproval of applications. Such criteria shall  
10 include, but not be limited to, the proposed use of the proceeds  
11 of the research and development repurchase credit.

12 (5) The research and development repurchase credit may be  
13 applied against a qualified tax liability of the taxpayer. The  
14 Department of Revenue shall refund any unused research and  
15 development repurchase credit upon request by the taxpayer.

16 (f) The research and development repurchase credit shall be  
17 used to assist in funding expenses incurred in connection with  
18 the operation of the surrendering entity, including, but not  
19 limited to, expenses for fixed assets, materials, start-up,  
20 tenant fit-out, working capital, salaries, research and  
21 development expenditures, and any other expenses determined by  
22 the Department of Community and Economic Development to be  
23 valuable in expanding the entity's presence in this  
24 Commonwealth.

25 (g) The Department of Community and Economic Development and  
26 the Department of Revenue may adopt regulations as deemed  
27 necessary to implement the provisions of this section.

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