

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 181 Session of 2017

INTRODUCED BY MENSCH, BARTOLOTTA, GREENLEAF, BROOKS, ARGALL, RESCHENTHALER, VULAKOVICH, DISANTO, FOLMER, WAGNER, VOGEL, STEFANO, EICHELBERGER, LAUGHLIN, RAFFERTY, WHITE, ALLOWAY, AUMENT, SCARNATI, HUTCHINSON, MARTIN AND WARD, JANUARY 25, 2017

SENATOR BROWNE, APPROPRIATIONS, AS AMENDED, JANUARY 31, 2017

AN ACT

1 Providing for performance-based budgeting AND TAX CREDIT <--
2 EFFICIENCY REVIEW; establishing the Performance-Based Budget
3 Board and providing for its powers and duties; and conferring
4 powers and imposing duties on the Independent Fiscal Office.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Performance-
9 Based Budgeting AND TAX CREDIT EFFICIENCY Act. <--

10 Section 2. Findings.

11 The General Assembly finds and declares as follows:

12 (1) The traditional method of budget development, which
13 relies upon incremental adjustments to expenditures made in
14 the previous financial period, insulates governmental
15 activities from the thorough fiscal review expected by
16 taxpayers citizens.

17 (2) New and changing demands for public services are met

1 through excessive budget growth rather than by systematic and
2 thorough analysis based on performance measurement and
3 established performance benchmarks and the reallocation of
4 existing fiscal resources. Traditional budgeting processes
5 often result in the continuation of obsolete or ineffective
6 programs and increased reliance on taxpayer support. Some
7 programs were established so long ago that the original
8 statutory basis has either been forgotten or is out of date.
9 In time, the budget is driven by inertia rather than by clear
10 and defensible purposes.

11 (3) Performance-based budgeting is an effective method
12 to counter the tendency toward perpetuation of outmoded State
13 programs.

14 (4) A THOROUGH AND EFFICIENT REVIEW OF THE TAX CREDITS <--
15 THE COMMONWEALTH OFFERS TO VARIOUS INDIVIDUALS, ORGANIZATIONS
16 AND COMPANIES IS VITAL TO ENSURING THAT THE COMMONWEALTH IS
17 BEING A GOOD STALWART OF THE SUPPORT OF TAXPAYERS.

18 Section 3. Definitions.

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

22 "Agency." An agency, board or commission under the
23 Governor's jurisdiction.

24 "Board." The Performance-Based Budget Board established
25 under this act.

26 "EVALUATION." THE PROCESS OF REVIEW OF A TAX CREDIT BY THE <--
27 IFO. THE TERM INCLUDES SOLICITING OR ACCEPTING PUBLIC INPUT.

28 "EVALUATION DATE." THE DATE BY WHICH AN EVALUATION OF A TAX
29 CREDIT BY THE IFO MUST BE COMPLETED.

30 "IFO." The Independent Fiscal Office established under

1 Article VI-B of the act of April 9, 1929 (P.L.177, No.175),
2 known as The Administrative Code of 1929.

3 "Secretary." The Secretary of the Budget of the
4 Commonwealth.

5 "TAX REFORM CODE OF 1971." THE ACT OF MARCH 4, 1971 (P.L.6, <--
6 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

7 Section 4. Performance-based budgets.

8 (a) Initiation of program.--Notwithstanding the provisions
9 of sections 610 and 611 of the act of April 9, 1929 (P.L.177,
10 No.175), known as The Administrative Code of 1929, to the
11 contrary, the secretary shall for fiscal year 2018-2019 initiate
12 a program of performance-based budget reviews as part of the
13 annual budget preparation and program evaluation processes.

14 (b) Schedule.--The secretary, in conjunction with the
15 director of the IFO, shall, within 30 days of the effective date
16 of this act, establish a schedule of performance-based budget
17 reviews for all agencies. The schedule shall ensure that the
18 agencies are subject to a performance-based budget review at
19 least once every five years.

20 (c) Notice.--Each time an agency is subject to a
21 performance-based budget review, the secretary shall notify the
22 agency and require the agency to prepare and submit such
23 information to the IFO as may be required for the preparation of
24 a performance-based budget plan. The information shall include,
25 but not be limited to:

26 (1) Detailed descriptions of all agency line item
27 appropriations and programs, including information on
28 populations served, grants awarded and subsidies provided for
29 grant and subsidy appropriations.

30 (2) Descriptive information and data related to existing

1 performance measures for agency appropriations and programs.

2 (3) An agency mission statement and agency goals and
3 objectives for the budget year and successive planning years,
4 including specific goals and objectives, where they exist,
5 for agency programs.

6 (4) Any other information as the IFO may require.

7 (d) Submission of information.--Agencies shall submit
8 performance-based budget information contemporaneously to the
9 secretary, the IFO, the chairperson and minority chairperson of
10 the Appropriations Committee of the Senate and the chairperson
11 and minority chairperson of the Appropriations Committee of the
12 House of Representatives.

13 (e) Concurrent resolutions.--The General Assembly may direct
14 a performance-based budget review for an agency by adoption of a
15 concurrent resolution. Upon adoption of a concurrent resolution
16 under this subsection, the secretary shall make notification to
17 the agency under subsection (c).

18 Section 5. Independent Fiscal Office.

19 (a) Development of agency performance-based budget plan.--

20 (1) The IFO, pursuant to its mandate under section 604-
21 B(a) (3) of the act of April 9, 1929 (P.L.177, No.175), known
22 as The Administrative Code of 1929, and this act, shall
23 review agency performance-based budget information and
24 develop an agency performance-based budget plan for agencies
25 subject to a performance-based budget review under section 4.

26 (2) In developing performance-based budget plans the IFO
27 shall evaluate each agency program or line-item appropriation
28 and develop performance measures for each agency program or
29 line-item appropriation.

30 (3) Performance measurements shall include outcome-based

1 measures along with efficiency measures, activity cost
2 analysis, ratio measures, measures of status improvement of
3 recipient populations, economic outcomes and performance
4 benchmarks against similar State programs or similar programs
5 of other states or jurisdictions.

6 (b) Completion and submission of evaluations.--The
7 evaluations under subsection (a) shall be completed in a timely
8 manner and submitted by the IFO to the board for review and
9 approval.

10 (c) Interagency cooperation.--The secretary and the heads of
11 agencies shall cooperate with the IFO and provide any
12 information or data that the IFO may require to carry out its
13 duties under this act.

14 SECTION 6. EVALUATION. <--

15 (A) EVALUATION.--BEGINNING JANUARY 1, 2018, THE IFO SHALL
16 UNDERTAKE AND COMPLETE AN EVALUATION OF A TAX CREDIT BY THE
17 EVALUATION DATE AS FOLLOWS:

18 (1) ON OR BEFORE JANUARY 1, 2019, FOR THE FOLLOWING TAX
19 CREDITS:

20 (I) ARTICLE XVII-D OF THE TAX REFORM CODE OF 1971.

21 (II) ARTICLE XVII-G OF THE TAX REFORM CODE OF 1971.

22 (III) ARTICLE XVIII-F OF THE TAX REFORM CODE OF
23 1971.

24 (IV) ARTICLE XX-B OF THE ACT OF MARCH 10, 1949
25 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949.

26 (2) ON OR BEFORE JANUARY 1, 2020, FOR THE FOLLOWING TAX
27 CREDITS:

28 (I) ARTICLE XVII-B OF THE TAX REFORM CODE OF 1971.

29 (II) ARTICLE XVIII OF THE TAX REFORM CODE OF 1971.

30 (III) ARTICLE XVIII-E OF THE TAX REFORM CODE OF

1 1971.

2 (IV) THE TAX CREDITS AUTHORIZED UNDER SECTIONS 518
3 AND 519 OF THE ACT OF OCTOBER 6, 1998 (P.L.705, NO.92),
4 KNOWN AS THE KEYSTONE OPPORTUNITY ZONE, KEYSTONE
5 OPPORTUNITY EXPANSION ZONE AND KEYSTONE OPPORTUNITY
6 IMPROVEMENT ZONE ACT.

7 (3) ON OR BEFORE JANUARY 1, 2021, FOR THE FOLLOWING TAX
8 CREDITS:

9 (I) ARTICLE XVII-E OF THE TAX REFORM CODE OF 1971.

10 (II) ARTICLE XVII-H OF THE TAX REFORM CODE OF 1971.

11 (III) ARTICLE XVIII-C OF THE TAX REFORM CODE OF 1971.

12 (IV) SECTION 1906-F OF THE TAX REFORM CODE OF 1971.

13 (4) ON OR BEFORE JANUARY 1, 2022, FOR THE FOLLOWING TAX
14 CREDITS:

15 (I) ARTICLE XVII-I OF THE TAX REFORM CODE OF 1971.

16 (II) ARTICLE XIX-A OF THE TAX REFORM CODE OF 1971.

17 (III) ARTICLE XIX-B OF THE TAX REFORM CODE OF 1971.

18 (IV) ARTICLE XIX-C OF THE TAX REFORM CODE OF 1971.

19 (V) THE TAX CREDIT AUTHORIZED UNDER CHAPTER 7 OF THE
20 ACT OF JULY 9, 2008 (1ST SP.SESS., P.L.1873, NO.1), KNOWN
21 AS THE ALTERNATIVE ENERGY INVESTMENT ACT.

22 (5) ON OR BEFORE JANUARY 1, 2023, FOR THE FOLLOWING TAX
23 CREDITS:

24 (I) ARTICLE XVII-A OF THE TAX REFORM CODE OF 1971.

25 (II) ARTICLE XVIII-B OF THE TAX REFORM CODE OF 1971.

26 (III) ARTICLE XVIII-D OF THE TAX REFORM CODE OF
27 1971.

28 (IV) ANY OTHER TAX CREDIT NOT SPECIFIED UNDER THIS
29 SUBSECTION.

30 (B) FREQUENCY.--TAX CREDITS ENUMERATED UNDER SUBSECTION (A)

1 SHALL BE EVALUATED BY THE IFO ON OR BEFORE JANUARY 1 OF EVERY
2 FIFTH YEAR AFTER THE DATES SPECIFIED UNDER SUBSECTION (A) (1),
3 (2), (3), (4) AND (5).

4 (C) FUTURE TAX CREDITS.--SUBJECT TO SUBSECTION (D), A TAX
5 CREDIT AUTHORIZED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
6 SHALL BE EVALUATED BY THE IFO ON OR BEFORE JANUARY 1 OF THE
7 FIFTH YEAR AFTER ENACTMENT.

8 (D) TERMINATION.--IF A TAX CREDIT HAS A TERMINATION DATE
9 PROVIDED FOR BY LAW, AN EVALUATION SHALL BE MADE BY THE IFO OF
10 THE TAX CREDIT ON OR BEFORE JANUARY 1 OF THE YEAR PRECEDING THE
11 CALENDAR YEAR OF THE TERMINATION DATE.

12 (E) DUTY.--THE IFO MUST SUBMIT A REPORT OF THE EVALUATIONS
13 MADE UNDER THIS SECTION TO THE GOVERNOR, THE CHAIRPERSON AND
14 MINORITY CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE
15 SENATE, THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE FINANCE
16 COMMITTEE OF THE SENATE, THE CHAIRPERSON AND MINORITY
17 CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF
18 REPRESENTATIVES AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF
19 THE FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND MUST
20 MAKE THE REPORTS AVAILABLE ON THE IFO'S PUBLICLY ACCESSIBLE
21 INTERNET WEBSITE.

22 (F) CONTENTS.--A REPORT UNDER SUBSECTION (E) MUST INCLUDE
23 ALL OF THE FOLLOWING:

24 (1) THE PURPOSE FOR WHICH THE TAX CREDIT WAS
25 ESTABLISHED.

26 (2) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT IS
27 STILL APPROPRIATE.

28 (3) WHETHER THE TAX CREDIT IS MEETING THE TAX CREDIT'S
29 STATED INTENT.

30 (4) WHETHER THE TAX CREDIT COULD BE MORE EFFICIENTLY AND

1 EFFECTIVELY CARRIED OUT THROUGH ALTERNATIVE METHODS.

2 (5) THE COSTS OF PROVIDING THE TAX CREDIT, INCLUDING THE
3 ADMINISTRATIVE COST TO THE COMMONWEALTH AND LOST REVENUES TO
4 THE COMMONWEALTH AND LOCAL GOVERNMENTS.

5 (6) WHETHER THE TAX CREDIT SHOULD BE CONTINUED,
6 TERMINATED OR AMENDED.

7 (7) IF THE TAX CREDIT SHOULD BE AMENDED, RECOMMENDED
8 CHANGES TO MAKE THE TAX CREDIT MORE EFFICIENT AND EFFECTIVE.

9 Section ~~6~~ 7. Performance-Based Budget Board. <--

10 (a) Establishment.--The Performance-Based Budget Board is
11 established as an independent board to review and approve the
12 performance-based budget plans developed by the IFO for agencies
13 and to make recommendations on how each agency's operations and
14 programs may be made more transparent, effective and efficient.

15 (b) Members.--The board shall consist of the following
16 members:

17 (1) The secretary.

18 (2) The chairperson of the Appropriations Committee of
19 the Senate.

20 (3) The minority chairperson of the Appropriations
21 Committee of the Senate.

22 (4) The chairperson of the Appropriations Committee of
23 the House of Representatives.

24 (5) The minority chairperson of the Appropriations
25 Committee of the House of Representatives.

26 (c) Review and approval.--

27 (1) The board shall review and approve or disapprove
28 each performance-based budget plan submitted by the IFO in a
29 timely manner.

30 (2) Plans shall be approved by a majority vote of the

1 board taken at a public meeting.

2 (3) Meetings of the board shall be subject to the act of
3 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
4 Law, and 65 Pa.C.S. Ch. 7 (relating to open meetings).

5 (4) Plans not approved or disapproved by the board
6 within 45 days of submission by the IFO shall be deemed
7 approved. If the board disapproves a plan, it shall be
8 returned to the IFO with recommendations for revision and
9 resubmission to the board.

10 (d) Publication.--Approved performance-based budget plans
11 shall be published on the IFO's publicly accessible Internet
12 website.

13 (e) Agency representation during board review.--The head of
14 the agency, or a deputy secretary-level position, shall:

15 (1) Attend the performance-based budget board meeting
16 when the IFO presents the agency's performance-based budget
17 plan.

18 (2) Be available to offer additional explanation for
19 information contained in the plan.

20 Section 7 8. Governor. <--

21 The Governor shall consider approved agency performance-based
22 budgeting plans and performance measurements related thereto in
23 the annual budget development and implementation processes.

24 Section 8 9. General Assembly. <--

25 The General Assembly shall consider approved agency
26 performance-based budgeting plans ~~and~~, performance measurements <--
27 related thereto AND WHETHER OR NOT A TAX CREDIT IS EFFICIENT in <--
28 the annual budget development and implementation processes.

29 Section 9 10. Effective date. <--

30 This act shall take effect in 60 days.