

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, WARD AND REGAN,
JANUARY 25, 2017

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 21, 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 AND PROVIDING FOR PERFORMANCE HEARINGS AND PERFORMANCE <--
6 REVIEWS.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Performance-
11 Based Budgeting ~~and Tax Credit Efficiency~~ Act. <--

12 Section 2. Findings.

13 The General Assembly finds and declares as follows:

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

1 taxpaying citizens.

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10 statutory basis has either been forgotten or is out of date.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

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

16 ~~(4) A thorough and efficient review of the tax credits~~ <--
17 ~~the Commonwealth offers to various individuals, organizations~~
18 ~~and companies is vital to ensuring that the Commonwealth is~~
19 ~~being a good stalwart of the support of taxpayers.~~

20 Section 3. Definitions.

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

24 "Agency." An agency, board or commission under the
25 Governor's jurisdiction.

26 "Board." The Performance-Based Budget Board established
27 under this act.

28 ~~"Evaluation." The process of review of a tax credit by the~~ <--
29 ~~IFO. The term includes soliciting or accepting public input.~~

30 ~~"Evaluation date." The date by which an evaluation of a tax~~

1 ~~credit by the IFO must be completed.~~

2 "IFO." The Independent Fiscal Office established under
3 Article VI-B of the act of April 9, 1929 (P.L.177, No.175),
4 known as The Administrative Code of 1929.

5 "Secretary." The Secretary of the Budget of the
6 Commonwealth.

7 ~~"Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6, <--~~
8 ~~No.2), known as the Tax Reform Code of 1971.~~

9 Section 4. Performance-based budgets.

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

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

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

29 (1) Detailed descriptions of all agency line item
30 appropriations and programs, including information on

1 populations served, grants awarded and subsidies provided for
2 grant and subsidy appropriations.

3 (2) Descriptive information and data related to existing
4 performance measures for agency appropriations and programs.

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

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

10 (d) Submission of information.--Agencies shall submit
11 performance-based budget information ~~contemporaneously~~ to the <--
12 ~~secretary, BOARD AND the IFO, the chairperson and minority~~ <--
13 ~~chairperson of the Appropriations Committee of the Senate and~~
14 ~~the chairperson and minority chairperson of the Appropriations~~
15 ~~Committee of the House of Representatives.~~

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

21 Section 5. Independent Fiscal Office.

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

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

29 (2) In developing performance-based budget plans the IFO
30 shall evaluate each agency program or line-item appropriation

1 and develop performance measures for each agency program or
2 line-item appropriation.

3 (3) Performance measurements shall include outcome-based
4 measures along with efficiency measures, activity cost
5 analysis, ratio measures, measures of status improvement of
6 recipient populations, economic outcomes and performance
7 benchmarks against similar State programs or similar programs
8 of other states or jurisdictions.

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

13 (c) Interagency cooperation.--The ~~secretary~~ BOARD and the <--
14 heads of agencies shall cooperate with the IFO and provide any
15 information or data that the IFO may require to carry out its
16 duties under this act.

17 ~~Section 6. Evaluation.~~ <--

18 ~~(a) Evaluation. Beginning January 1, 2018, the IFO shall~~
19 ~~undertake and complete an evaluation of a tax credit by the~~
20 ~~evaluation date as follows:~~

21 ~~(1) On or before January 1, 2019, for the following tax~~
22 ~~credits:~~

23 ~~(i) Article XVII D of the Tax Reform Code of 1971.~~

24 ~~(ii) Article XVII G of the Tax Reform Code of 1971.~~

25 ~~(iii) Article XVIII F of the Tax Reform Code of~~
26 ~~1971.~~

27 ~~(iv) Article XX B of the act of March 10, 1949~~
28 ~~(P.L.30, No.14), known as the Public School Code of 1949.~~

29 ~~(2) On or before January 1, 2020, for the following tax~~
30 ~~credits:~~

1 ~~(i) Article XVII B of the Tax Reform Code of 1971.~~

2 ~~(ii) Article XVIII of the Tax Reform Code of 1971.~~

3 ~~(iii) Article XVIII E of the Tax Reform Code of~~
4 ~~1971.~~

5 ~~(iv) The tax credits authorized under sections 518~~
6 ~~and 519 of the act of October 6, 1998 (P.L.705, No.92),~~
7 ~~known as the Keystone Opportunity Zone, Keystone~~
8 ~~Opportunity Expansion Zone and Keystone Opportunity~~
9 ~~Improvement Zone Act.~~

10 ~~(3) On or before January 1, 2021, for the following tax~~
11 ~~credits:~~

12 ~~(i) Article XVII E of the Tax Reform Code of 1971.~~

13 ~~(ii) Article XVII H of the Tax Reform Code of 1971.~~

14 ~~(iii) Article XVIII C of the Tax Reform Code of 1971.~~

15 ~~(iv) Section 1906 F of the Tax Reform Code of 1971.~~

16 ~~(4) On or before January 1, 2022, for the following tax~~
17 ~~credits:~~

18 ~~(i) Article XVII I of the Tax Reform Code of 1971.~~

19 ~~(ii) Article XIX A of the Tax Reform Code of 1971.~~

20 ~~(iii) Article XIX B of the Tax Reform Code of 1971.~~

21 ~~(iv) Article XIX C of the Tax Reform Code of 1971.~~

22 ~~(v) The tax credit authorized under Chapter 7 of the~~
23 ~~act of July 9, 2008 (1st Sp.Sess., P.L.1873, No.1), known~~
24 ~~as the Alternative Energy Investment Act.~~

25 ~~(5) On or before January 1, 2023, for the following tax~~
26 ~~credits:~~

27 ~~(i) Article XVII A of the Tax Reform Code of 1971.~~

28 ~~(ii) Article XVIII B of the Tax Reform Code of 1971.~~

29 ~~(iii) Article XVIII D of the Tax Reform Code of~~
30 ~~1971.~~

1 ~~(iv) Any other tax credit not specified under this~~
2 ~~subsection.~~

3 ~~(b) Frequency. Tax credits enumerated under subsection (a)~~
4 ~~shall be evaluated by the IFO on or before January 1 of every~~
5 ~~fifth year after the dates specified under subsection (a) (1),~~
6 ~~(2), (3), (4) and (5).~~

7 ~~(c) Future tax credits. Subject to subsection (d), a tax~~
8 ~~credit authorized on or after the effective date of this section~~
9 ~~shall be evaluated by the IFO on or before January 1 of the~~
10 ~~fifth year after enactment.~~

11 ~~(d) Termination. If a tax credit has a termination date~~
12 ~~provided for by law, an evaluation shall be made by the IFO of~~
13 ~~the tax credit on or before January 1 of the year preceding the~~
14 ~~calendar year of the termination date.~~

15 ~~(e) Duty. The IFO must submit a report of the evaluations~~
16 ~~made under this section to the Governor, the chairperson and~~
17 ~~minority chairperson of the Appropriations Committee of the~~
18 ~~Senate, the chairperson and minority chairperson of the Finance~~
19 ~~Committee of the Senate, the chairperson and minority~~
20 ~~chairperson of the Appropriations Committee of the House of~~
21 ~~Representatives and the chairperson and minority chairperson of~~
22 ~~the Finance Committee of the House of Representatives and must~~
23 ~~make the reports available on the IFO's publicly accessible~~
24 ~~Internet website.~~

25 ~~(f) Contents. A report under subsection (e) must include~~
26 ~~all of the following:~~

27 ~~(1) The purpose for which the tax credit was~~
28 ~~established.~~

29 ~~(2) Whether the original intent of the tax credit is~~
30 ~~still appropriate.~~

1 ~~(3) Whether the tax credit is meeting the tax credit's~~
2 ~~stated intent.~~

3 ~~(4) Whether the tax credit could be more efficiently and~~
4 ~~effectively carried out through alternative methods.~~

5 ~~(5) The costs of providing the tax credit, including the~~
6 ~~administrative cost to the Commonwealth and lost revenues to~~
7 ~~the Commonwealth and local governments.~~

8 ~~(6) Whether the tax credit should be continued,~~
9 ~~terminated or amended.~~

10 ~~(7) If the tax credit should be amended, recommended~~
11 ~~changes to make the tax credit more efficient and effective.~~

12 Section 7 6. Performance-Based Budget Board. <--

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

18 (b) Members.--The board shall consist of the following
19 members:

20 (1) The ~~secretary~~ DIRECTOR OF THE IFO. <--

21 (2) The chairperson of the Appropriations Committee of
22 the Senate.

23 (3) The minority chairperson of the Appropriations
24 Committee of the Senate.

25 (4) The chairperson of the Appropriations Committee of
26 the House of Representatives.

27 (5) The minority chairperson of the Appropriations
28 Committee of the House of Representatives.

29 (c) Review and approval.--

30 (1) The board shall review and approve or disapprove

1 each performance-based budget plan submitted by the IFO in a
2 timely manner.

3 (2) Plans shall be approved by a majority vote of the
4 board taken at a public meeting.

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

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

13 (d) Publication.--Approved performance-based budget plans
14 shall be published on the IFO's publicly accessible Internet
15 website AND DISTRIBUTED TO THE GENERAL ASSEMBLY AND THE BOARD BY <--
16 JANUARY 31 OF EACH YEAR.

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

19 (1) Attend the performance-based budget board meeting
20 when the IFO presents the agency's performance-based budget
21 plan.

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

24 Section 7. Governor. <--

25 The Governor shall consider approved agency performance-based
26 budgeting plans and performance measurements related thereto in
27 the annual budget development and implementation processes.

28 Section 8. General Assembly. <--

29 The General Assembly shall consider approved agency
30 performance-based budgeting plans, AND performance measurements <--

1 related thereto ~~and whether or not a tax credit is efficient~~ in <--
2 the annual budget development and implementation processes.

3 SECTION 9. PERFORMANCE HEARINGS BY STANDING COMMITTEES. <--

4 (A) APPLICABILITY.--THIS SECTION APPLIES TO A PERFORMANCE
5 HEARING BY A STANDING COMMITTEE OF THE GENERAL ASSEMBLY TO
6 REVIEW AN AGENCY'S PROPOSED APPROPRIATION FOR THE NEXT FISCAL
7 YEAR.

8 (B) FREQUENCY.--EACH STANDING COMMITTEE SHALL CONDUCT AT
9 LEAST ONE PERFORMANCE HEARING BETWEEN FEBRUARY 1 AND MAY 30.

10 (C) PURPOSE.--EACH STANDING COMMITTEE SHALL HEAR A
11 PRESENTATION FROM EACH AGENCY THAT IS ASSIGNED TO THAT STANDING
12 COMMITTEE. THE PRESENTATION SHALL INCLUDE, BUT NOT BE LIMITED
13 TO, THE AGENCY'S PERFORMANCE-BASED BUDGET PLAN AND REGULATORY
14 AGENDA FOR THE NEXT FISCAL YEAR.

15 SECTION 10. PERFORMANCE AUDITS BY DEPARTMENT OF THE AUDITOR
16 GENERAL.

17 (A) FREQUENCY.--THE DEPARTMENT OF THE AUDITOR GENERAL SHALL,
18 WITHIN EXISTING RESOURCES, CONDUCT OR CAUSE TO BE CONDUCTED
19 PERFORMANCE AUDITS OF ONE OR MORE SPECIFIC PROGRAMS OR SERVICES
20 IN AT LEAST TWO AGENCIES ON AN ANNUAL BASIS.

21 (B) SELECTION CONSIDERATIONS.--IN SELECTING AN AGENCY AND A
22 SPECIFIC PROGRAM OR SERVICE FOR A PERFORMANCE AUDIT, THE
23 DEPARTMENT OF THE AUDITOR GENERAL SHALL CONSIDER RISK, AUDIT
24 COVERAGE, RESOURCES REQUIRED TO CONDUCT THE PERFORMANCE AUDIT
25 AND THE IMPACT OF THE AUDITED PROGRAM OR SERVICE ON THE AGENCY'S
26 PERFORMANCE-BASED GOALS.

27 (C) REVIEW.--A PERFORMANCE AUDIT OF A PROGRAM OR SERVICE
28 SELECTED FOR AUDIT MAY INCLUDE, BUT IS NOT LIMITED TO, A REVIEW
29 OF ALL OF THE FOLLOWING:

30 (1) THE INTEGRITY OF THE PERFORMANCE MEASURES AUDITED.

1 (2) THE ACCURACY AND VALIDITY OF REPORTED RESULTS.

2 (3) THE OVERALL COST AND EFFECTIVENESS OF THE AUDITED
3 PROGRAM OR SERVICE IN ACHIEVING LEGISLATIVE INTENT AND THE
4 PERFORMANCE GOALS.

5 (D) TRANSMITTAL.--THE DEPARTMENT OF THE AUDITOR GENERAL
6 SHALL TRANSMIT EACH PERFORMANCE AUDIT REPORT FOR THE IMMEDIATELY
7 PRIOR FISCAL YEAR TO THE CHAIRPERSON AND MINORITY CHAIRPERSON OF
8 THE STANDING COMMITTEES WITH JURISDICTION OVER THE AGENCY.

9 (E) OTHER REPORTS.--THE DEPARTMENT OF THE AUDITOR GENERAL
10 SHALL TRANSMIT ANY OTHER AUDIT REPORT REGARDING AN AGENCY THAT
11 IS DEEMED RELEVANT FOR REVIEW BY A STANDING COMMITTEE WITH
12 JURISDICTION OVER THE AGENCY.

13 Section ~~10~~ 11. Effective date.

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14 This act shall take effect in 60 days.