

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 734 Session of 2021

INTRODUCED BY HAYWOOD, SANTARSIERO, COSTA, KANE, TARTAGLIONE, MENSCH, HUGHES, CAPPELLETTI AND MUTH, JUNE 3, 2021

SENATOR HUTCHINSON, FINANCE, AS AMENDED, JUNE 8, 2021

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," in tax credit eligibility, further providing for~~
11 ~~definitions and for eligibility and providing for independent~~
12 ~~audit for tax credits, for additional requirements for~~
13 ~~certain tax credits, for independent audit for certain tax~~
14 ~~benefits, for additional requirements for tax benefits, for~~
15 ~~broker registration, for tax credit administration, for tax~~
16 ~~benefit administration and for guidelines; in research and~~
17 ~~development tax credit, further providing for credit for~~
18 ~~research and development expenses and for report to General~~
19 ~~Assembly; in keystone innovation zones, further providing for~~
20 ~~keystone innovation zone tax credits and for annual report;~~
21 ~~and making editorial changes.~~

22 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--
23 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
24 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
25 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
26 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
27 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
28 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
29 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
30 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
31 PENALTIES," IN TAX CREDIT ELIGIBILITY, FURTHER PROVIDING FOR
32 DEFINITIONS AND FOR ELIGIBILITY AND PROVIDING FOR APPLICATION
33 AND ADMINISTRATION, FOR ASSESSMENT, FOR ADMINISTERING AGENCY
34 TRAINING, FOR BROKER REGISTRATION, FOR TAX CREDIT AND TAX

1 BENEFIT REPORTS, FOR ALLOCATION OF TAX CREDITS OR TAX BENEFIT
2 PROGRAM AWARDED UPON APPEAL AND FOR GUIDELINES; IN RESEARCH
3 AND DEVELOPMENT TAX CREDIT, FURTHER PROVIDING FOR CREDIT FOR
4 RESEARCH AND DEVELOPMENT EXPENSES, FOR CARRYOVER, CARRYBACK,
5 REFUND AND ASSIGNMENT OF CREDIT AND FOR REPORT TO GENERAL
6 ASSEMBLY; IN KEYSTONE INNOVATION ZONES, FURTHER PROVIDING FOR
7 KEYSTONE INNOVATION ZONE TAX CREDITS AND FOR ANNUAL REPORT;
8 IN PROCEDURE AND ADMINISTRATION, FURTHER PROVIDING FOR
9 PETITION FOR REASSESSMENT, FOR PETITION PROCEDURE AND FOR
10 REVIEW BY BOARD; AND MAKING EDITORIAL CHANGES.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. The heading of Article XVII A.1 of the act of~~ <--
14 ~~March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of~~
15 ~~1971, is amended to read:~~

16 ~~ARTICLE XVII A.1~~

17 ~~TAX CREDIT [ELIGIBILITY] ADMINISTRATION~~

18 ~~Section 2. The definition of "tax credit" in section 1701-~~
19 ~~A.1 of the act is amended and the section is amended by adding~~
20 ~~definitions to read:~~

21 ~~Section 1701 A.1. Definitions.~~

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

25 ~~"Administering agency." The department, board or commission~~
26 ~~that administers a tax benefit or tax credit.~~

27 ~~"Broker." Any person registered to engage in the business of~~
28 ~~effecting transactions in tax credits for the account of others,~~
29 ~~including assisting a taxpayer, business firm or other recipient~~
30 ~~to apply for, sell or purchase a tax credit. The term includes~~
31 ~~an entity and any partner, officer, director or affiliate of the~~
32 ~~entity or a person occupying a similar status or performing~~
33 ~~similar functions for the entity.~~

34 * * *

35 ~~"Tax benefit." A tax benefit authorized under any of the~~

1 following:

2 ~~(1) Article XVII A.~~

3 ~~(2) Article XVIII C.~~

4 ~~(3) Article XIX B.~~

5 ~~(4) Article XIX D.~~

6 ~~(5) Article XXIX C.~~

7 ~~(6) Article XXIX D.~~

8 ~~(7) The act of October 6, 1998 (P.L.705, No.92), known~~

9 ~~as the Keystone Opportunity Zone, Keystone Opportunity~~

10 ~~Expansion Zone and Keystone Opportunity Improvement Zone Act.~~

11 ~~"Tax credit." A tax credit authorized under any of the~~

12 following:

13 ~~(1) Article XVII B.~~

14 ~~(2) Article XVII D.~~

15 ~~(3) Article XVII E.~~

16 ~~(4) Article XVII G.~~

17 ~~(5) Article XVII H.~~

18 ~~(6) Article XVII I.~~

19 ~~(7) Article XVII J.~~

20 ~~(8) Article XVII K.~~

21 ~~(8.1) Article XVII L.~~

22 ~~(9) Article XVIII.~~

23 ~~(10) Article XVIII B.~~

24 ~~(11) Article XVIII D.~~

25 ~~(12) Article XVIII E.~~

26 ~~(13) Article XVIII F.~~

27 ~~(14) Article XVIII G.~~

28 ~~(14.1) Article XVIII H.~~

29 ~~(15) Article XIX A.~~

30 ~~(16) Article XIX E.~~

1 ~~(16.1) Article XIX C.~~

2 ~~(16.2) Article XIX F.~~

3 ~~(17) Section 2010.~~

4 ~~(18) Article XXIX D.~~

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

7 ~~(20) The act of December 1, 2004 (P.L.1750, No.226),~~
8 ~~known as the First Class Cities Economic Development District~~
9 ~~Act.~~

10 ~~(21) 12 Pa.C.S. Ch. 34 (relating to Infrastructure and~~
11 ~~Facilities Improvement Program).~~

12 Section 3. ~~Section 1702 A.1 of the act is amended to read:~~
13 ~~Section 1702 A.1. Eligibility.~~

14 ~~(a) Except as otherwise provided by law, before a tax credit~~
15 ~~or tax benefit can be awarded, the department or administering~~
16 ~~agency, as applicable, may make a finding that the taxpayer has~~
17 ~~filed all required State tax reports and returns for all~~
18 ~~applicable taxable years and paid any balance of State tax due~~
19 ~~as determined at settlement or assessment by the department,~~
20 ~~unless the tax due is currently under appeal.~~

21 ~~(b) [(Reserved).] The department or administering agency,~~
22 ~~as applicable, may require returns, reports, documents,~~
23 ~~statements, applications or registrations for a tax benefit or~~
24 ~~tax credit to be filed electronically.~~

25 Section 4. ~~The act is amended by adding sections to read:~~
26 ~~Section 1703 A.1. Independent audit for tax credits.~~

27 ~~(a) Except as otherwise provided by law, before a tax credit~~
28 ~~can be awarded, sold or assigned, the applicant may be required~~
29 ~~to hire an independent auditor to prepare audited financial~~
30 ~~statements. The department may require the audited financial~~

~~1 statements due to material misrepresentations made on a tax
2 credit application or if the administering agency suspects the
3 applicant is committing fraudulent activity. The department may
4 require that the audited financial statements contain
5 information as the department requires.~~

~~6 (b) The independent audit under subsection (a) shall be
7 conducted by a certified public accountant.~~

~~8 Section 1704 A.1. Additional requirements for tax credits.~~

~~9 (a) Except as otherwise provided by law, before a tax credit
10 may be awarded, sold or assigned, the department, in
11 consultation with the administering agency, may:~~

~~12 (1) Require the submission of all of the following with
13 a tax credit application:~~

~~14 (i) Photo identification of the applicant's chief
15 executive officer and authorized representative
16 responsible for submitting the tax credit application.
17 Photo identification shall include the individual's name
18 and address.~~

~~19 (ii) Bank account statements relating to the
20 business.~~

~~21 (iii) Business records, such as receipts and
22 expenditures.~~

~~23 (iv) Business origination documents, such as
24 articles of incorporation, partnership or reference to
25 documents under this subparagraph in records of the
26 Department of State or similar entity in another
27 jurisdiction.~~

~~28 (2) Require that the applicant meet for an in person
29 interview with representatives or agents of the department to
30 verify the application and materials provided under this~~

1 ~~section.~~

2 ~~(3) Require the business to agree to submit to scheduled~~
3 ~~and unscheduled site inspections by the administering agency~~
4 ~~or the representatives and agents of the department.~~

5 ~~(b) The administering agency may require all representatives~~
6 ~~and agents of the administering agency who assist businesses~~
7 ~~with applications for tax credits to:~~

8 ~~(1) Obtain appropriate training from the administering~~
9 ~~agency for conducting on site visits for the purposes of~~
10 ~~verifying compliance with all requirements relating to~~
11 ~~application for and issuance of a tax credit.~~

12 ~~(2) Advise a business that has been issued a tax credit~~
13 ~~of the responsibility of the business in filing reports~~
14 ~~concerning use of the tax credit as provided by law.~~

15 ~~(3) Conduct scheduled and unscheduled visits to the~~
16 ~~sites of tax credit awardees to ensure compliance with the~~
17 ~~requirements of the tax credit.~~

18 ~~(c) A successful applicant who is awarded a tax credit shall~~
19 ~~file an annual report with the department detailing how the tax~~
20 ~~credit was used or if the tax credits were sold. The report~~
21 ~~shall include the following and any other information the~~
22 ~~department deems necessary:~~

23 ~~(1) Itemization of expenses and income generated by the~~
24 ~~business to which the tax credit applied.~~

25 ~~(2) A report of how money associated with the tax credit~~
26 ~~was used.~~

27 ~~(3) If sold, the broker used in the transaction of sale.~~
28 ~~Section 1705 A.1. Independent audit for tax benefits.~~

29 ~~(a) Except as otherwise provided by law, before a tax~~
30 ~~benefit can be awarded, sold or assigned, the applicant may be~~

~~1 required to hire an independent auditor to prepare audited
2 financial statements. The department may require the submission
3 of audited financial statements. Audited financial statements
4 shall be required if the administering agency suspects the
5 applicant is committing fraudulent activity or that a material
6 misrepresentation was made on the tax benefit application. The
7 department may require that the audited financial statements
8 contain information as the department requires.~~

~~9 (b) The independent audit under subsection (a) shall be
10 conducted by a certified public accountant.~~

~~11 Section 1706 A.1. Additional requirements for tax benefits.~~

~~12 (a) Except as otherwise provided by law, before a tax
13 benefit may be awarded, sold or assigned, the department, in
14 consultation with the administering agency, may:~~

~~15 (1) Require the submission of all of the following with
16 a tax benefit application:~~

~~17 (i) Photo identification of the applicant's chief
18 executive officer and authorized representative
19 responsible for submitting the tax credit application.
20 Photo identification shall include the individual's name
21 and address.~~

~~22 (ii) Bank account statements relating to the
23 business.~~

~~24 (iii) Business records, such as receipts and
25 expenditures.~~

~~26 (iv) Business origination documents, such as
27 articles of incorporation, partnership or reference to
28 documents under this subparagraph in records of the
29 Department of State or similar entity in another
30 jurisdiction.~~

1 ~~(2) Require that the applicant meet for an in person~~
2 ~~interview with representatives or agents of the department to~~
3 ~~verify the application and materials provided under this~~
4 ~~section.~~

5 ~~(3) Require the business to agree to submit to scheduled~~
6 ~~and unscheduled site inspections by the administering agency~~
7 ~~or the representatives or agents of the department.~~

8 ~~(b) The administering agency may require all representatives~~
9 ~~and agents of the administering agency who assist businesses~~
10 ~~with applications for tax benefit to:~~

11 ~~(1) Obtain appropriate training from the administering~~
12 ~~agency for conducting on site visits for the purposes of~~
13 ~~verifying compliance with all requirements relating to~~
14 ~~application for and issuance of a tax benefit.~~

15 ~~(2) Advise a business that has been issued a tax benefit~~
16 ~~of the responsibility of the business for filing reports~~
17 ~~concerning use of the tax benefit as provided by law.~~

18 ~~(3) Conduct scheduled and unscheduled visits to the~~
19 ~~sites of tax benefit awardees to ensure compliance with the~~
20 ~~requirements of the tax benefit.~~

21 ~~(c) A successful applicant who is awarded a tax benefit~~
22 ~~shall file an annual report with the department detailing how~~
23 ~~the tax benefit was used or if the tax benefits were sold. The~~
24 ~~report shall include, but is not limited to, the following:~~

25 ~~(1) Itemization of expenses and income generated by the~~
26 ~~business to which the tax benefit applied.~~

27 ~~(2) A report of how money associated with the tax~~
28 ~~benefit was used.~~

29 ~~(3) If sold, the broker used in the transaction of sale.~~
30 ~~Section 1707 A.1. Broker registration.~~

1 ~~(a) All brokers shall be registered under this section. Any~~
2 ~~agent or other party representing a broker or assisting a broker~~
3 ~~in effecting the application for, purchase of or sale of a tax~~
4 ~~credit or tax benefit shall be registered under this section.~~

5 ~~(b) The department, in consultation with the Department of~~
6 ~~Community and Economic Development, shall establish guidelines~~
7 ~~providing for the application and registration of brokers under~~
8 ~~this article. The guidelines shall require, but not be limited~~
9 ~~to, the following:~~

10 ~~(1) Name and address of the broker showing that the~~
11 ~~broker resides in this Commonwealth.~~

12 ~~(2) Name and address of the business with which the~~
13 ~~broker is employed or otherwise associated that is located in~~
14 ~~this Commonwealth.~~

15 ~~(3) The broker be at least 18 years of age.~~

16 ~~(4) Minimum educational requirements, qualifications and~~
17 ~~experience necessary for the issuance of a registration under~~
18 ~~this article.~~

19 ~~(5) A criminal background check prepared by the~~
20 ~~Pennsylvania State Police that demonstrates the broker has~~
21 ~~not been convicted of any felony offense or an offense that~~
22 ~~involved fraud or misrepresentation in this Commonwealth or~~
23 ~~any other jurisdiction.~~

24 ~~(6) A list of any professional licenses that have been~~
25 ~~issued to the broker and whether the broker is in good~~
26 ~~standing with the licensing authority.~~

27 ~~(7) Verification that the application is submitted under~~
28 ~~18 Pa.C.S. §§ 4903 (relating to false swearing) and 4904~~
29 ~~(relating to unsworn falsification to authorities).~~

30 ~~(8) Payment of any required application, licensing and~~

1 ~~registration fees.~~

2 ~~(9) Tax clearance showing all satisfaction of all State~~
3 ~~and local taxes.~~

4 ~~(c) A broker shall obtain an initial or renewed registration~~
5 ~~by filing an application with the department, providing~~
6 ~~information and documentation and paying all fees as required by~~
7 ~~the department.~~

8 ~~(d) A registration issued under this section shall include a~~
9 ~~unique registration number for the registrant and be valid for~~
10 ~~two years from the date of issue. A registration issued under~~
11 ~~this section may be suspended or revoked by the department for~~
12 ~~good cause.~~

13 ~~(e) A broker denied a registration, or whose registration is~~
14 ~~suspended or revoked, may appeal the department's determination~~
15 ~~in the same manner as provided by Article XXVII.~~

16 ~~(f) Brokers effecting the sale of a tax credit or tax~~
17 ~~benefit or assisting a taxpayer, business firm or other~~
18 ~~recipient to apply for or purchase a tax credit or tax benefit,~~
19 ~~shall attach to the application a certification that the~~
20 ~~statements and representations made in the application are true~~
21 ~~and correct and subject to the penalties as set forth in 18~~
22 ~~Pa.C.S. § 4903 or 4904 and shall include the broker's unique~~
23 ~~registration number issued by the department.~~

24 ~~(g) The department may require the payment of an application~~
25 ~~fee to review and process a registration.~~

26 ~~(h) A broker registered under this section shall post a bond~~
27 ~~of \$50,000 with the department.~~

28 ~~Section 1708 A.1. Tax credit administration.~~

29 ~~(a) The department shall have the following powers:~~

30 ~~(1) To audit a taxpayer, business firm or other~~

1 ~~recipient of a tax credit, including the purchaser of a tax~~
2 ~~credit.~~

3 ~~(2) To issue an assessment against a taxpayer, business~~
4 ~~firm or other recipient of a tax credit or beneficiary of a~~
5 ~~tax credit if the department determines that the tax credit~~
6 ~~was improperly issued or the benefits of the tax credit were~~
7 ~~improperly conferred. If a tax credit is sold to a bona fide~~
8 ~~purchaser for value, the department may only issue an~~
9 ~~assessment against the party selling the tax credit and the~~
10 ~~broker signing the certification required by section 1707-~~
11 ~~A.1(f). The seller and the broker shall be jointly and~~
12 ~~severally liable for the amount due.~~

13 ~~(b) The procedures, collection, enforcement and appeals of~~
14 ~~any assessment made under this section shall be governed by Part~~
15 ~~X of Article III, except that the limitations on assessment and~~
16 ~~collection in section 348 shall not apply.~~

17 ~~(c) The department shall issue an assessment under this~~
18 ~~section subject to the following limitations:~~

19 ~~(1) Within three years of the date the tax credit is~~
20 ~~awarded or within three years of the date the tax credit is~~
21 ~~sold, whichever is later.~~

22 ~~(2) If the taxpayer obtains a tax credit by fraud, the~~
23 ~~department may issue an assessment at any time.~~

24 ~~Section 1709 A.1. Tax benefit administration.~~

25 ~~(a) The department shall have the following powers:~~

26 ~~(1) To audit a taxpayer, business firm or other~~
27 ~~recipient of a tax benefit.~~

28 ~~(2) To issue an assessment against a taxpayer, business~~
29 ~~firm or other recipient of a tax benefit if the department~~
30 ~~determines that the tax benefit was improperly issued or~~

1 ~~improperly conferred.~~

2 ~~(b) The procedures, collection, enforcement and appeals of~~
3 ~~any assessment made under this section shall be governed by Part~~
4 ~~X of Article III, except that the limitations on assessment and~~
5 ~~collection in section 348 shall not apply.~~

6 ~~(c) The department shall issue an assessment under this~~
7 ~~section subject to the following limitations:~~

8 ~~(1) Within three years of the date the tax benefit is~~
9 ~~awarded.~~

10 ~~(2) If the taxpayer obtains a tax benefit by fraud, the~~
11 ~~department may issue an assessment at any time.~~

12 ~~Section 1710 A.1. Guidelines.~~

13 ~~The department shall develop written guidelines for the~~
14 ~~implementation of this article.~~

15 ~~Section 5. Sections 1703 B(a) and (c), 1711 B, 1906 F(b) and~~
16 ~~1908 F of the act are amended to read:~~

17 ~~Section 1703 B. Credit for Research and Development~~
18 ~~Expenses. (a) A taxpayer who incurs Pennsylvania qualified~~
19 ~~research and development expense in a taxable year may apply for~~
20 ~~a research and development tax credit as provided in this~~
21 ~~article. By [September 15] December 1, a taxpayer must submit an~~
22 ~~application to the department for Pennsylvania qualified~~
23 ~~research and development expense incurred in the taxable year~~
24 ~~that ended in the prior calendar year.~~

25 ~~* * *~~

26 ~~(c) By [December 15] June 1 of the second calendar year~~
27 ~~following the close of the taxable year during which the~~
28 ~~Pennsylvania qualified research and development expense was~~
29 ~~incurred, the department shall notify the taxpayer of the amount~~
30 ~~of the taxpayer's research and development tax credit approved~~

1 ~~by the department.~~

2 ~~Section 1711 B. Report to General Assembly. The secretary~~
3 ~~shall submit an annual report to the General Assembly indicating~~
4 ~~the effectiveness of the credit provided by this article no~~
5 ~~later than [March 15] October 1 following the calendar year in~~
6 ~~which the credits were approved. The report shall include the~~
7 ~~names of all taxpayers utilizing the credit as of the date of~~
8 ~~the report and the amount of credits approved and utilized by~~
9 ~~each taxpayer. Notwithstanding any law providing for the~~
10 ~~confidentiality of tax records, the information contained in the~~
11 ~~report shall be public information. The report may also include~~
12 ~~any recommendations for changes in the calculation or~~
13 ~~administration of the credit.~~

14 ~~Section 1906 F. Keystone innovation zone tax credits.~~

15 ~~* * *~~

16 ~~(b) Application for tax credit. A KIZ company may file an~~
17 ~~application for a tax credit with the department. An application~~
18 ~~under this subsection must be filed by [September 15 of each~~
19 ~~year for the prior taxable year, beginning September 15, 2006.]~~
20 ~~December 1 for the prior tax year. The application must be~~
21 ~~submitted on a form required by the department and must be~~
22 ~~accompanied by a certification from the KIZ coordinator that the~~
23 ~~KIZ company falls within a targeted industry segment identified~~
24 ~~in the strategic plan adopted by the KIZ partnership, and meet~~
25 ~~any other requirements specified by the department. The~~
26 ~~department shall review the application and, upon being~~
27 ~~satisfied that all requirements have been met, the department~~
28 ~~shall issue a tax credit certificate to the KIZ company. All~~
29 ~~certificates shall be awarded by [December 15] June 1 of each~~
30 ~~year following the calendar year of application.~~

1 INNOVATION ZONE COORDINATOR UNDER ARTICLE XIX-F.

2 "APPLICANT." A PERSON APPLYING TO AN ADMINISTERING AGENCY
3 FOR A TAX CREDIT OR A TAX BENEFIT.

4 "APPLICATION." AN APPLICATION SUBMITTED TO AN ADMINISTERING
5 AGENCY BY AN APPLICANT FOR A TAX CREDIT OR TAX BENEFIT. THE TERM
6 INCLUDES A TRANSFER APPLICATION AND SUPPLEMENTAL DOCUMENTATION
7 REQUIRED TO BE PROVIDED BY AN APPLICANT, INCLUDING REPORTS,
8 RETURNS AND STATEMENTS.

9 "BROKER." A PERSON REGISTERED TO ENGAGE IN THE BUSINESS OF
10 EFFECTUATING TRANSACTIONS IN TAX CREDITS FOR THE ACCOUNT OF
11 OTHERS, INCLUDING ASSISTING A TAXPAYER TO APPLY FOR, SELL,
12 TRANSFER, ASSIGN OR PURCHASE A TAX CREDIT. THE TERM INCLUDES AN
13 ENTITY AND ANY PARTNER, OFFICER, DIRECTOR OR AFFILIATE OF THE
14 ENTITY OR A PERSON OCCUPYING A SIMILAR STATUS OR PERFORMING
15 SIMILAR FUNCTIONS FOR THE ENTITY.

16 * * *

17 "PERSON." ANY INDIVIDUAL, EMPLOYER, ASSOCIATION, FIDUCIARY,
18 PARTNERSHIP, CORPORATION, ENTITY, ESTATE OR TRUST, WHETHER A
19 RESIDENT OR NONRESIDENT OF THIS COMMONWEALTH.

20 "PROGRAM YEAR." THE ANNUAL PERIOD IN WHICH THE TAX CREDIT OR
21 TAX BENEFIT OPERATES.

22 "RECIPIENT." A PERSON WHICH IS SOLD, ASSIGNED OR TRANSFERRED
23 A TRANSFERRABLE TAX CREDIT.

24 "TAX BENEFIT." FOR PURPOSES OF THIS ARTICLE, A TAX BENEFIT
25 AUTHORIZED UNDER ANY OF THE FOLLOWING:

26 (1) ARTICLE XVII-A.

27 (2) ARTICLE XVIII-C.

28 (3) ARTICLE XIX-B.

29 (4) ARTICLE XIX-D.

30 (5) ARTICLE XXIX-C.

1 (6) ARTICLE XXIX-D.
2 (7) THE ACT OF OCTOBER 6, 1998 (P.L.705, NO.92), KNOWN
3 AS THE KEYSTONE OPPORTUNITY ZONE, KEYSTONE OPPORTUNITY
4 EXPANSION ZONE AND KEYSTONE OPPORTUNITY IMPROVEMENT ZONE ACT.

5 "TAX CREDIT." A TAX CREDIT AUTHORIZED UNDER ANY OF THE
6 FOLLOWING:

7 (1) ARTICLE XVII-B.

8 (2) ARTICLE XVII-D.

9 (3) ARTICLE XVII-E.

10 (4) ARTICLE XVII-G.

11 (5) ARTICLE XVII-H.

12 (6) ARTICLE XVII-I.

13 (7) ARTICLE XVII-J.

14 (8) ARTICLE XVII-K.

15 (8.1) ARTICLE XVII-L.

16 (9) ARTICLE XVIII.

17 (10) ARTICLE XVIII-B.

18 (11) ARTICLE XVIII-D.

19 (12) ARTICLE XVIII-E.

20 (13) ARTICLE XVIII-F.

21 (14) ARTICLE XVIII-G.

22 (14.1) ARTICLE XVIII-H.

23 (15) ARTICLE XIX-A.

24 (15.1) ARTICLE XIX-C.

25 (16) ARTICLE XIX-E.

26 (16.1) ARTICLE XIX-F.

27 (17) SECTION 2010.

28 (18) ARTICLE XXIX-D.

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

1 (20) THE ACT OF DECEMBER 1, 2004 (P.L.1750, NO.226),
2 KNOWN AS THE FIRST CLASS CITIES ECONOMIC DEVELOPMENT DISTRICT
3 ACT.

4 (21) 12 PA.C.S. CH. 34 (RELATING TO INFRASTRUCTURE AND
5 FACILITIES IMPROVEMENT PROGRAM).

6 (22) ANY OTHER PROGRAM ESTABLISHED BY A LAW OF THIS
7 COMMONWEALTH IN WHICH A PERSON APPLIES FOR AND RECEIVES A
8 CREDIT AGAINST A TAX. THIS PARAGRAPH SHALL NOT APPLY TO A
9 CREDIT AGAINST A TAX LIABILITY AS A RESULT OF AN OVERPAYMENT.

10 "TAXPAYER." A PERSON WHICH WAS APPROVED FOR A TAX CREDIT OR
11 TAX BENEFIT OR WHICH OTHERWISE RECEIVED A TAX CREDIT.

12 "TRANSFER APPLICATION." AN APPLICATION SUBMITTED TO THE
13 DEPARTMENT OR THE ADMINISTERING AGENCY BY AN APPLICANT OR A
14 RECIPIENT AS PART OF THE SALE, ASSIGNMENT OR TRANSFER OF A
15 TRANSFERRABLE TAX CREDIT TO A RECIPIENT.

16 "TRANSFERRABLE TAX CREDIT." A TAX CREDIT WHICH MAY BE SOLD,
17 ASSIGNED OR TRANSFERRED FROM AN APPLICANT TO A DIFFERENT
18 TAXPAYER. THE TERM INCLUDES A TAX CREDIT WHICH MAY BE
19 TRANSFERRED TO A SHAREHOLDER, MEMBER OR PARTNER OF AN APPLICANT.

20 SECTION 3. SECTION 1702-A.1 OF THE ACT IS AMENDED TO READ:
21 SECTION 1702-A.1. [ELIGIBILITY.] DETERMINATION OF ELIGIBILITY
22 AND METHOD OF SUBMISSION.

23 (A) TAX REPORTS AND RETURNS.--EXCEPT AS OTHERWISE PROVIDED
24 BY LAW, BEFORE A TAX CREDIT [CAN] OR TAX BENEFIT MAY BE AWARDED,
25 THE DEPARTMENT [MAY] OR ADMINISTERING AGENCY, AS APPLICABLE,
26 SHALL MAKE A FINDING THAT [THE TAXPAYER] AN APPLICANT OR A
27 RECIPIENT HAS FILED ALL REQUIRED STATE TAX REPORTS AND RETURNS
28 FOR ALL APPLICABLE TAXABLE YEARS AND PAID ANY BALANCE OF STATE
29 TAX DUE AS DETERMINED AT SETTLEMENT OR ASSESSMENT BY THE
30 DEPARTMENT, UNLESS THE TAX DUE IS [CURRENTLY] UNDER APPEAL AT

1 THE TIME THE FINDING WAS MADE BY THE DEPARTMENT OR ADMINISTERING
2 AGENCY.

3 (B) [(RESERVED).] ELECTRONIC APPLICATIONS.--THE DEPARTMENT
4 OR ADMINISTERING AGENCY, AS APPLICABLE, MAY REQUIRE AN
5 APPLICATION FOR A TAX BENEFIT OR TAX CREDIT TO BE FILED
6 ELECTRONICALLY.

7 SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
8 SECTION 1703-A.1. APPLICATION AND ADMINISTRATION.

9 (A) INSUFFICIENT APPLICATION.--IF AN ADMINISTERING AGENCY
10 FINDS THAT AN APPLICATION IS INSUFFICIENT, THE DEPARTMENT, IN
11 CONSULTATION WITH THE ADMINISTERING AGENCY, MAY DO ALL OF THE
12 FOLLOWING:

13 (1) REQUIRE THE SUBMISSION OF ADDITIONAL DOCUMENTATION
14 OR VERIFICATION WHICH VERIFIES MATERIAL IN THE APPLICATION.
15 ADDITIONAL DOCUMENTATION OR VERIFICATION REQUIRED UNDER THIS
16 PARAGRAPH MAY INCLUDE ANY OF THE FOLLOWING:

17 (I) A COPY OF THE PHOTO IDENTIFICATION OF THE
18 APPLICANT'S OR RECIPIENT'S CHIEF EXECUTIVE OFFICER AND
19 AUTHORIZED REPRESENTATIVE RESPONSIBLE FOR SUBMITTING THE
20 APPLICATION. A COPY OF PHOTO IDENTIFICATION UNDER THIS
21 SUBPARAGRAPH SHALL INCLUDE THE INDIVIDUAL'S NAME AND
22 ADDRESS.

23 (II) BANK ACCOUNT STATEMENTS RELATING TO THE
24 BUSINESS.

25 (III) BUSINESS RECORDS, INCLUDING RECEIPTS AND
26 EXPENDITURES.

27 (IV) BUSINESS ORIGINATION DOCUMENTS, INCLUDING
28 ARTICLES OF INCORPORATION, PARTNERSHIP OR REFERENCE TO
29 DOCUMENTS UNDER THIS SUBPARAGRAPH IN RECORDS OF THE
30 DEPARTMENT OF STATE OR SIMILAR ENTITY IN ANOTHER

1 JURISDICTION.

2 (V) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT
3 OR ADMINISTERING AGENCY TO VALIDATE THE APPLICATION.

4 (2) FOR AN APPLICANT WHICH IS NOT AN INDIVIDUAL, REQUIRE
5 THAT THE APPLICANT OR RECIPIENT MEET FOR A VIRTUAL OR IN-
6 PERSON INTERVIEW WITH REPRESENTATIVES OR AGENTS OF THE
7 DEPARTMENT OR THE ADMINISTERING AGENCY TO VERIFY THE
8 APPLICATION.

9 (3) FOR AN APPLICANT WHICH IS NOT AN INDIVIDUAL, REQUIRE
10 THE APPLICANT OR RECIPIENT TO AGREE TO SUBMIT TO SCHEDULED OR
11 UNSCHEDULED SITE INSPECTIONS BY THE DEPARTMENT, THE
12 ADMINISTERING AGENCY OR REPRESENTATIVES OR AGENTS OF THE
13 DEPARTMENT OR ADMINISTERING AGENCY. IF THE SITE IS LOCATED IN
14 AN AREA WHERE UNSCHEDULED SITE VISITS ARE NOT FEASIBLE, THE
15 DEPARTMENT OR ADMINISTERING AGENCY SHALL PROVIDE SUFFICIENT
16 NOTICE PRIOR TO THE VISIT.

17 (B) RISK CRITERIA.--THE DEPARTMENT AND AN ADMINISTERING
18 AGENCY MAY JOINTLY DEVELOP RISK SCORING CRITERIA TO DETERMINE
19 WHEN AN APPLICANT OR RECIPIENT MAY BE REQUIRED TO DO ANY OF THE
20 FOLLOWING:

21 (1) AS A CONDITION OF APPROVAL OF THE APPLICATION, TO
22 HIRE AN INDEPENDENT AUDITOR TO PREPARE AUDITED FINANCIAL
23 STATEMENTS. THE INDEPENDENT AUDITOR UNDER THIS PARAGRAPH
24 SHALL BE A CERTIFIED PUBLIC ACCOUNTANT.

25 (2) PROVIDE INFORMATION WHICH SHALL BE INCLUDED IN THE
26 AUDITED FINANCIAL STATEMENTS UNDER PARAGRAPH (1).

27 (3) REQUIRE THE AUDITED FINANCIAL STATEMENTS UNDER
28 PARAGRAPH (1) TO BE SUBMITTED TO THE DEPARTMENT.

29 (C) REPORTS.--AN APPLICANT WHICH IS APPROVED FOR A TAX
30 CREDIT OR TAX BENEFIT SHALL FILE AN ANNUAL REPORT WITH THE

1 DEPARTMENT OR ADMINISTERING AGENCY DETAILING ALL OF THE
2 FOLLOWING:

3 (1) FOR A TRANSFERRABLE TAX CREDIT, ALL OF THE
4 FOLLOWING:

5 (I) WHETHER THE APPLICANT USED, SOLD, ASSIGNED OR
6 TRANSFERRED A PORTION OR ALL OF THE TAX CREDIT IN THE
7 PRIOR PROGRAM YEAR.

8 (II) WHETHER THE TAX CREDIT WAS SOLD, ASSIGNED OR
9 TRANSFERRED FOR CONSIDERATION IN THE PRIOR PROGRAM YEAR
10 AND THE NAME OF THE RECIPIENT.

11 (III) IF THE TAX CREDIT WAS SOLD, ASSIGNED OR
12 TRANSFERRED FOR CONSIDERATION, THE AMOUNT OF THE
13 CONSIDERATION.

14 (IV) IF THE TAX CREDIT WAS SOLD, ASSIGNED OR
15 TRANSFERRED FOR CONSIDERATION, WHETHER THE SALE,
16 ASSIGNMENT OR TRANSFER WAS CONDUCTED WITH THE ASSISTANCE
17 OF A BROKER AND THE NAME AND REGISTRATION NUMBER OF THE
18 BROKER.

19 (2) IF APPLICABLE, AN ITEMIZATION OF EXPENSES, INCOME
20 AND JOBS GENERATED AS A RESULT OF THE RECEIPT OF THE TAX
21 CREDIT OR TAX BENEFIT.

22 (3) ANY OTHER INFORMATION THAT THE DEPARTMENT OR
23 ADMINISTERING AGENCY DEEMS NECESSARY.

24 (D) SUBMISSION OF DATA.--THE DEPARTMENT OR ADMINISTERING
25 AGENCY SHALL PROVIDE THE INFORMATION SUBMITTED UNDER SUBSECTION
26 (C) (2) TO THE INDEPENDENT FISCAL OFFICE FOR USE IN PREPARING A
27 TAX CREDIT REPORT UNDER SECTION 5 OF THE ACT OF OCTOBER 30, 2017
28 (P.L.797, NO.48), KNOWN AS THE PERFORMANCE-BASED BUDGETING AND
29 TAX CREDIT EFFICIENCY ACT.
30 SECTION 1704-A.1. ASSESSMENT.

1 (A) AUTHORIZATION.--THE DEPARTMENT MAY ISSUE AN ASSESSMENT
2 AGAINST A TAXPAYER IF THE DEPARTMENT DETERMINES THAT A TAX
3 CREDIT OR TAX BENEFIT WAS IMPROPERLY ISSUED OR THE BENEFITS OF
4 THE TAX CREDIT OR TAX BENEFIT WERE IMPROPERLY CONFERRED.

5 (B) LIABILITY FOR ASSESSMENT.--IF A TAX CREDIT IS SOLD,
6 TRANSFERRED OR ASSIGNED TO A BONA FIDE PURCHASER FOR
7 CONSIDERATION, THE DEPARTMENT MAY ONLY ISSUE AN ASSESSMENT UNDER
8 SUBSECTION (A) AGAINST THE PERSON SELLING THE TAX CREDIT AND THE
9 BROKER WHICH SIGNED THE CERTIFICATION REQUIRED BY SECTION 1706-
10 A.1(G). A SELLER AND BROKER UNDER THIS SUBSECTION SHALL BE
11 JOINTLY AND SEVERALLY LIABLE FOR THE AMOUNT DUE.

12 (C) PROCEDURES.--THE PROCEDURES, COLLECTION, ENFORCEMENT AND
13 APPEALS OF AN ASSESSMENT MADE UNDER SUBSECTION (A) SHALL BE
14 SUBJECT TO PART X OF ARTICLE III, EXCEPT THAT THE LIMITATIONS ON
15 ASSESSMENT AND COLLECTION UNDER SECTION 348 SHALL NOT APPLY.

16 (D) LIMITATIONS.--

17 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE
18 DEPARTMENT MUST ISSUE AN ASSESSMENT UNDER SUBSECTION (A)
19 WITHIN THREE YEARS OF THE DATE THE TAX CREDIT OR TAX BENEFIT
20 IS AWARDED OR WITHIN THREE YEARS OF THE DATE THE TAX CREDIT
21 IS SOLD, TRANSFERRED OR ASSIGNED, WHICHEVER IS LATER.

22 (2) IF A TAXPAYER OBTAINS A TAX CREDIT OR TAX BENEFIT BY
23 FRAUD, THE DEPARTMENT MAY ISSUE AN ASSESSMENT UNDER
24 SUBSECTION (A) AT ANY TIME.

25 SECTION 1705-A.1. ADMINISTERING AGENCY TRAINING.

26 (A) TRAINING.--AN ADMINISTERING AGENCY SHALL PROVIDE AGENCY
27 EMPLOYEES AND REPRESENTATIVES AND AGENTS OF THE ADMINISTERING
28 AGENCY WHO ASSIST APPLICANTS WITH APPLICATIONS WITH TRAINING ON
29 ALL OF THE FOLLOWING:

30 (1) THE REQUIREMENTS FOR A TAX CREDIT OR TAX BENEFIT.

1 (2) ADVISING AN APPLICANT THAT HAS BEEN ISSUED A TAX
2 CREDIT OR TAX BENEFIT OF THE DUTY OF THE BUSINESS TO FILE
3 REPORTS CONCERNING USE OF THE TAX CREDIT OR TAX BENEFIT AS
4 REQUIRED BY THE LAWS OF THIS COMMONWEALTH.

5 (3) CONDUCTING ONSITE VISITS TO VERIFY COMPLIANCE WITH
6 THE REQUIREMENTS RELATING TO APPLICATION FOR AND ISSUANCE OF
7 A TAX CREDIT OR TAX BENEFIT.

8 (4) CONDUCTING SCHEDULED AND UNSCHEDULED VISITS TO THE
9 SITE OF A TAXPAYER TO ENSURE COMPLIANCE WITH THE REQUIREMENTS
10 OF THE TAX CREDIT OR TAX BENEFIT.

11 (B) (RESERVED).

12 SECTION 1706-A.1. BROKER REGISTRATION.

13 (A) REGISTRATION REQUIRED.--A BROKER SHALL BE REGISTERED
14 WITH THE DEPARTMENT UNDER THIS SECTION. AN AGENT OR OTHER PARTY
15 REPRESENTING A BROKER OR ASSISTING A BROKER ON BEHALF OF AN
16 APPLICANT EXECUTING AN APPLICATION FOR, PURCHASE OF OR SALE OF A
17 TAX CREDIT SHALL REGISTER UNDER THIS SECTION.

18 (B) GUIDELINES.--THE DEPARTMENT, IN CONSULTATION WITH THE
19 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, SHALL
20 ESTABLISH GUIDELINES PROVIDING FOR THE APPLICATION AND
21 REGISTRATION OF A BROKER UNDER THIS SECTION. THE GUIDELINES
22 SHALL REQUIRE ALL OF THE FOLLOWING:

23 (1) THE NAME AND ADDRESS OF THE BROKER SHOWING THAT THE
24 BROKER RESIDES IN THIS COMMONWEALTH.

25 (2) THE NAME AND ADDRESS OF THE BUSINESS WITH WHICH THE
26 BROKER IS EMPLOYED OR OTHERWISE ASSOCIATED THAT IS LOCATED IN
27 THIS COMMONWEALTH.

28 (3) THAT THE BROKER BE AT LEAST 18 YEARS OF AGE.

29 (4) THE MINIMUM EDUCATIONAL REQUIREMENTS, QUALIFICATIONS
30 AND EXPERIENCE NECESSARY FOR THE ISSUANCE OF A REGISTRATION

1 UNDER THIS SECTION.

2 (5) A CRIMINAL BACKGROUND CHECK PREPARED BY THE
3 PENNSYLVANIA STATE POLICE THAT DEMONSTRATES THE BROKER HAS
4 NOT BEEN CONVICTED OF A FELONY OFFENSE OR AN OFFENSE THAT
5 INVOLVED FRAUD OR MISREPRESENTATION IN THIS COMMONWEALTH OR
6 ANY OTHER JURISDICTION.

7 (6) A LIST OF EACH PROFESSIONAL LICENSE THAT HAS BEEN
8 ISSUED TO THE BROKER AND WHETHER THE BROKER IS IN GOOD
9 STANDING WITH THE LICENSING AUTHORITY.

10 (7) VERIFICATION THAT THE APPLICATION IS SUBMITTED IN
11 ACCORDANCE WITH 18 PA.C.S. §§ 4903 (RELATING TO FALSE
12 SWEARING) AND 4904 (RELATING TO UNSWORN FALSIFICATION TO
13 AUTHORITIES).

14 (8) PAYMENT OF ANY REQUIRED APPLICATION, LICENSING AND
15 REGISTRATION FEES.

16 (9) TAX CLEARANCE SHOWING SATISFACTION OF ALL STATE AND
17 LOCAL TAXES.

18 (C) APPLICATIONS.--A BROKER SHALL OBTAIN AN INITIAL OR
19 RENEWED REGISTRATION BY FILING AN APPLICATION WITH THE
20 DEPARTMENT, PROVIDING INFORMATION AND DOCUMENTATION AND PAYING
21 ALL FEES AS REQUIRED BY THE DEPARTMENT.

22 (D) DURATION OF REGISTRATION.--A REGISTRATION UNDER THIS
23 SECTION SHALL BE VALID FOR A PERIOD OF TWO YEARS FROM THE DATE
24 OF ISSUANCE.

25 (E) REGISTRATION NUMBER.--A REGISTRATION UNDER THIS SECTION
26 SHALL INCLUDE A UNIQUE REGISTRATION NUMBER FOR THE REGISTRANT. A
27 REGISTRATION UNDER THIS SECTION MAY BE SUSPENDED OR REVOKED BY
28 THE DEPARTMENT FOR GOOD CAUSE.

29 (F) APPEALS.--A BROKER WHO IS DENIED A REGISTRATION UNDER
30 THIS SECTION, OR WHOSE REGISTRATION IS SUSPENDED OR REVOKED, MAY

1 APPEAL THE DEPARTMENT'S DETERMINATION IN THE SAME MANNER AS
2 PROVIDED BY ARTICLE XXVII.

3 (G) ATTACHMENT OF CERTIFICATION.--A BROKER EXECUTING THE
4 SALE OF A TAX CREDIT OR ASSISTING AN APPLICANT OR A TAXPAYER TO
5 APPLY FOR OR PURCHASE A TAX CREDIT SHALL ATTACH A CERTIFICATION
6 TO THE APPLICATION THAT THE STATEMENTS AND REPRESENTATIONS MADE
7 IN THE APPLICATION ARE TRUE AND CORRECT AND SUBJECT TO THE
8 PENALTIES AS SET FORTH IN 18 PA.C.S. § 4903 OR 4904. THE BROKER
9 SHALL INCLUDE THE BROKER'S UNIQUE REGISTRATION NUMBER ISSUED BY
10 THE DEPARTMENT IN THE CERTIFICATION UNDER THIS SECTION.

11 (H) FEES.--THE DEPARTMENT MAY REQUIRE THE PAYMENT OF AN
12 APPLICATION FEE TO REVIEW AND PROCESS A REGISTRATION UNDER THIS
13 SECTION.

14 (I) PENALTIES.--A PERSON WHO VIOLATES THE REQUIREMENTS
15 SPECIFIED UNDER THIS SECTION SHALL PAY A CIVIL FINE OF \$25,000
16 FOR THE FIRST OFFENSE AND \$50,000 FOR EACH ADDITIONAL OFFENSE TO
17 THE DEPARTMENT.

18 (J) BOND REQUIRED.--A BROKER REGISTERED UNDER THIS SECTION
19 SHALL POST A BOND OF \$50,000 WITH THE DEPARTMENT.

20 SECTION 1707-A.1. TAX CREDIT AND TAX BENEFIT REPORTS.

21 (A) REPORTS.--NOTWITHSTANDING ANY LAW PROVIDING FOR THE
22 CONFIDENTIALITY OF TAX CREDITS, BEGINNING WITH THE FIRST PROGRAM
23 YEAR WHICH BEGINS AFTER THE EFFECTIVE DATE OF THIS SECTION AND
24 EACH PROGRAM YEAR THEREAFTER, THE ADMINISTERING AGENCY SHALL
25 PUBLISH A REPORT FOR EACH TAX CREDIT OR TAX BENEFIT, WHICH SHALL
26 INCLUDE THE FOLLOWING INFORMATION:

27 (1) THE NAME OF EACH APPLICANT WHICH RECEIVED A TAX
28 CREDIT OR TAX BENEFIT IN THE PRIOR PROGRAM YEAR. FOR A TAX
29 CREDIT, THE AMOUNT OF TAX CREDIT AWARDED TO EACH APPLICANT.

30 (2) FOR A TAX CREDIT, WHETHER AN APPLICANT UNDER

1 PARAGRAPH (1) SOLD, ASSIGNED OR TRANSFERRED A TAX CREDIT IN
2 THE PRIOR PROGRAM YEAR.

3 (3) IF APPLICABLE, A SUMMARY OF THE DATA SUBMITTED UNDER
4 SECTION 1703-A.1(C) (2).

5 (4) IF AVAILABLE, ALL OF THE FOLLOWING:

6 (I) THE NAME OF THE RECIPIENT TO WHICH THE TAX
7 CREDIT UNDER PARAGRAPH (2) WAS SOLD, ASSIGNED OR
8 TRANSFERRED IN THE PRIOR PROGRAM YEAR. THE NAME OF AN
9 INDIVIDUAL RECEIVING A TAX CREDIT WITHOUT CONSIDERATION
10 FROM A PASS-THROUGH ENTITY IN WHICH THE INDIVIDUAL IS A
11 SHAREHOLDER, MEMBER OR PARTNER SHALL NOT BE PUBLISHED.

12 (II) THE AMOUNT OF TAX CREDIT UNDER PARAGRAPH (2)
13 THAT WAS SOLD, ASSIGNED OR TRANSFERRED IN THE PRIOR
14 PROGRAM YEAR.

15 (III) THE PRICE FOR WHICH A TAX CREDIT UNDER
16 PARAGRAPH (2) WAS SOLD, ASSIGNED OR TRANSFERRED.

17 (B) PUBLICATION.--

18 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), AN
19 ADMINISTERING AGENCY SHALL PUBLISH A REPORT UNDER SUBSECTION
20 (A) ON THE ADMINISTERING AGENCY'S PUBLICLY AVAILABLE INTERNET
21 WEBSITE NO LATER THAN 45 DAYS AFTER THE END OF A PROGRAM
22 YEAR.

23 (2) IF AN ADMINISTERING AGENCY IS REQUIRED BY A LAW OF
24 THIS COMMONWEALTH TO PREPARE AN ANNUAL REPORT ON THE TAX
25 CREDIT OR TAX BENEFIT, THE INFORMATION UNDER SUBSECTION (A)
26 SHALL BE INCLUDED IN THE ANNUAL REPORT REQUIRED BY THE LAW OF
27 THIS COMMONWEALTH.

28 SECTION 1708-A.1. ALLOCATION OF TAX CREDITS OR TAX BENEFITS
29 AWARDED UPON APPEAL.

30 (A) APPEAL.--IF AN ADMINISTERING AGENCY DENIES AN

1 APPLICANT'S APPLICATION FOR A TAX CREDIT OR TAX BENEFIT PROGRAM,
2 THE APPLICANT MAY APPEAL THE ADMINISTERING AGENCY'S
3 DETERMINATION IN THE SAME MANNER AS PROVIDED BY ARTICLE XXVII.

4 (B) AWARDING OF TAX CREDIT OR TAX BENEFIT UPON APPEAL.--THE
5 FOLLOWING SHALL APPLY TO AN ALLOCATION OF TAX CREDITS AWARDED
6 UPON THE FINAL RESOLUTION OF AN APPEAL:

7 (1) IF AN APPLICANT IS AWARDED A TAX CREDIT WHICH IS
8 SUBJECT TO A TOTAL ANNUAL LIMITATION, UPON THE FINAL
9 RESOLUTION OF AN APPEAL AFTER THE FULL ALLOCATION OF CREDITS
10 AVAILABLE FOR A FISCAL YEAR IS COMPLETELY EXPENDED, THE
11 ADMINISTERING AGENCY SHALL INCLUDE THE AWARDED TAX CREDIT
12 WITHIN THE DISTRIBUTION OF TAX CREDITS IN THE NEXT PROGRAM
13 YEAR AFTER THE RESOLUTION OF THE APPEAL FOR WHICH AN AMOUNT
14 FOR ALLOCATION IS AVAILABLE.

15 (2) WHEN AWARDING A TAX CREDIT TO AN APPLICANT UNDER
16 PARAGRAPH (1), THE ADMINISTERING AGENCY SHALL APPLY ANY
17 REDUCTION IN THE AWARDED TAX CREDIT AMOUNT AS WAS APPLIED IN
18 THE PROGRAM YEAR FOR WHICH THE CREDIT WAS DENIED IF THE
19 REDUCTION WAS APPLIED DUE TO THE TOTAL CREDITS APPLIED FOR
20 EXCEEDING THE AMOUNT OF CREDITS ALLOCATED FOR THE PROGRAM
21 YEAR.

22 (3) WHEN AWARDING A TAX CREDIT TO AN APPLICANT UNDER
23 PARAGRAPH (1), THE ADMINISTERING AGENCY SHALL REDUCE THE
24 TOTAL AMOUNT OF CREDITS AVAILABLE FOR ALLOCATION IN THE NEXT
25 PROGRAM YEAR BY THE AMOUNT OF CREDITS AWARDED.

26 (4) THE AWARDED TAX CREDITS UNDER PARAGRAPH (1) SHALL
27 APPLY FOR THE PROGRAM YEAR IN WHICH THE CREDIT WAS DENIED.

28 (C) APPEAL.--IF THE DEPARTMENT OF COMMUNITY AND ECONOMIC
29 DEVELOPMENT DENIES AN APPLICANT'S APPLICATION FOR A TAX CREDIT
30 OR TAX BENEFIT PROGRAM, THE APPLICANT MAY APPEAL IN A MANNER

1 ESTABLISHED BY THE DEPARTMENT OF COMMUNITY AND ECONOMIC
2 DEVELOPMENT.

3 (D) DEFINITION.--AS USED IN THIS SECTION, THE TERM
4 "ADMINISTERING AGENCY" SHALL EXCLUDE THE DEPARTMENT OF COMMUNITY
5 AND ECONOMIC DEVELOPMENT.

6 SECTION 1709-A.1. GUIDELINES.

7 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE
8 IMPLEMENTATION OF THIS ARTICLE.

9 SECTION 5. SECTIONS 1703-B(A) AND (C), 1704-B(A) AND (B),
10 1711-B, 1906-F(B) AND (D) AND 1908-F OF THE ACT ARE AMENDED TO
11 READ:

12 SECTION 1703-B. CREDIT FOR RESEARCH AND DEVELOPMENT
13 EXPENSES.-- (A) A TAXPAYER WHO INCURS PENNSYLVANIA QUALIFIED
14 RESEARCH AND DEVELOPMENT EXPENSE IN A TAXABLE YEAR MAY APPLY FOR
15 A RESEARCH AND DEVELOPMENT TAX CREDIT AS PROVIDED IN THIS
16 ARTICLE. BY [SEPTEMBER 15] NOVEMBER 1, A TAXPAYER MUST SUBMIT AN
17 APPLICATION TO THE DEPARTMENT FOR PENNSYLVANIA QUALIFIED
18 RESEARCH AND DEVELOPMENT EXPENSE INCURRED IN THE TAXABLE YEAR
19 THAT ENDED IN THE PRIOR CALENDAR YEAR.

20 * * *

21 (C) BY [DECEMBER 15 OF THE] MAY 1 OF THE SECOND CALENDAR
22 YEAR FOLLOWING THE CLOSE OF THE TAXABLE YEAR DURING WHICH THE
23 PENNSYLVANIA QUALIFIED RESEARCH AND DEVELOPMENT EXPENSE WAS
24 INCURRED, THE DEPARTMENT SHALL NOTIFY THE TAXPAYER OF THE AMOUNT
25 OF THE TAXPAYER'S RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED
26 BY THE DEPARTMENT.

27 SECTION 1704-B. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT
28 OF CREDIT.-- (A) IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF
29 THE RESEARCH AND DEVELOPMENT TAX CREDIT FOR THE FIRST TAXABLE
30 YEAR IN WHICH THE TAXPAYER APPLIED FOR A RESEARCH AND

1 DEVELOPMENT TAX CREDIT [IS FIRST APPROVED], THEN THE EXCESS MAY
2 BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT
3 AGAINST THE QUALIFIED TAX LIABILITY OF THE TAXPAYER FOR THOSE
4 TAXABLE YEARS. EACH TIME THAT THE RESEARCH AND DEVELOPMENT TAX
5 CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE YEAR, IT IS TO BE
6 REDUCED BY THE AMOUNT THAT WAS USED AS A CREDIT DURING THE
7 IMMEDIATELY PRECEDING TAXABLE YEAR. THE RESEARCH AND DEVELOPMENT
8 TAX CREDIT PROVIDED BY THIS ARTICLE MAY BE CARRIED OVER AND
9 APPLIED TO SUCCEEDING TAXABLE YEARS FOR NO MORE THAN FIFTEEN
10 TAXABLE YEARS FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE
11 TAXPAYER WAS ENTITLED TO CLAIM THE CREDIT.

12 (B) A RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED BY THE
13 DEPARTMENT FOR PENNSYLVANIA QUALIFIED RESEARCH AND DEVELOPMENT
14 EXPENSE IN A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE
15 TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR
16 AS OF THE DATE ON WHICH THE [CREDIT WAS APPROVED] TAXPAYER
17 APPLIED FOR THE CREDIT BEFORE THE RESEARCH AND DEVELOPMENT TAX
18 CREDIT IS APPLIED AGAINST ANY TAX LIABILITY UNDER SUBSECTION
19 (A).

20 * * *

21 SECTION 1711-B. REPORT TO GENERAL ASSEMBLY.--THE SECRETARY
22 SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY INDICATING
23 THE EFFECTIVENESS OF THE CREDIT PROVIDED BY THIS ARTICLE NO
24 LATER THAN [MARCH 15 FOLLOWING THE] OCTOBER 1 FOLLOWING THE
25 CALENDAR YEAR IN WHICH THE CREDITS WERE APPROVED. THE REPORT
26 SHALL INCLUDE THE NAMES OF ALL TAXPAYERS UTILIZING THE CREDIT AS
27 OF THE DATE OF THE REPORT AND THE AMOUNT OF CREDITS APPROVED AND
28 UTILIZED BY EACH TAXPAYER. NOTWITHSTANDING ANY LAW PROVIDING FOR
29 THE CONFIDENTIALITY OF TAX RECORDS, THE INFORMATION CONTAINED IN
30 THE REPORT SHALL BE PUBLIC INFORMATION. THE REPORT MAY ALSO

1 INCLUDE ANY RECOMMENDATIONS FOR CHANGES IN THE CALCULATION OR
2 ADMINISTRATION OF THE CREDIT.

3 SECTION 1906-F. KEYSTONE INNOVATION ZONE TAX CREDITS.

4 * * *

5 (B) APPLICATION FOR TAX CREDIT.--A KIZ COMPANY MAY FILE AN
6 APPLICATION FOR A TAX CREDIT WITH THE DEPARTMENT. AN APPLICATION
7 UNDER THIS SUBSECTION MUST BE FILED BY [SEPTEMBER 15 OF EACH
8 YEAR FOR THE PRIOR TAXABLE YEAR, BEGINNING SEPTEMBER 15, 2006]
9 NOVEMBER 1 FOR THE PRIOR TAX YEAR. THE APPLICATION MUST BE
10 SUBMITTED ON A FORM REQUIRED BY THE DEPARTMENT AND MUST BE
11 ACCOMPANIED BY A CERTIFICATION FROM THE KIZ COORDINATOR THAT THE
12 KIZ COMPANY FALLS WITHIN A TARGETED INDUSTRY SEGMENT IDENTIFIED
13 IN THE STRATEGIC PLAN ADOPTED BY THE KIZ PARTNERSHIP, AND MEET
14 ANY OTHER REQUIREMENTS SPECIFIED BY THE DEPARTMENT. THE
15 DEPARTMENT SHALL REVIEW THE APPLICATION AND, UPON BEING
16 SATISFIED THAT ALL REQUIREMENTS HAVE BEEN MET, THE DEPARTMENT
17 SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE KIZ COMPANY. ALL
18 CERTIFICATES SHALL BE AWARDED BY [DECEMBER 15 OF EACH YEAR] MAY
19 1 OF EACH YEAR FOLLOWING THE CALENDAR YEAR OF APPLICATION.

20 * * *

21 (D) APPLICATION OF TAX CREDIT AND ELECTION.--A TAX CREDIT
22 APPROVED UNDER THIS SECTION MUST BE FIRST APPLIED AGAINST THE
23 KIZ COMPANY'S TAX LIABILITY UNDER ARTICLE III, IV OR VI, FOR THE
24 TAXABLE YEAR [DURING] IN WHICH THE TAXPAYER APPLIED FOR THE TAX
25 CREDIT [IS APPROVED]. IF THE AMOUNT OF TAX LIABILITY OWED BY THE
26 KIZ COMPANY IS LESS THAN THE AMOUNT OF THE TAX CREDIT, THE KIZ
27 COMPANY MAY ELECT TO CARRY FORWARD THE AMOUNT OF THE REMAINING
28 TAX CREDIT FOR A PERIOD NOT TO EXCEED FOUR ADDITIONAL TAXABLE
29 YEARS AND TO APPLY THE CREDIT AGAINST TAX LIABILITY INCURRED
30 DURING THOSE TAX YEARS; OR THE KIZ COMPANY MAY ELECT TO SELL OR

1 ASSIGN A PORTION OF THE TAX CREDIT IN ACCORDANCE WITH THE
2 PROVISIONS OF SUBSECTION (F). A KIZ COMPANY MAY NOT CARRY BACK
3 OR OBTAIN A REFUND OF AN UNUSED KEYSTONE INNOVATION ZONE TAX
4 CREDIT.

5 * * *

6 SECTION 1908-F. ANNUAL REPORT.

7 THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE SECRETARY
8 OF THE SENATE AND THE CHIEF CLERK OF THE HOUSE OF
9 REPRESENTATIVES INDICATING THE EFFECTIVENESS OF THE KEYSTONE
10 INNOVATION ZONE TAX CREDIT PROVIDED BY THIS ARTICLE BY [DECEMBER
11 31 OF EACH YEAR, BEGINNING DECEMBER 31, 2007] OCTOBER 1 OF EACH
12 YEAR FOLLOWING THE CALENDAR YEAR OF APPLICATION. NOTWITHSTANDING
13 ANY LAW PROVIDING FOR THE CONFIDENTIALITY OF TAX RECORDS, THE
14 REPORT SHALL INCLUDE THE NAMES OF ALL TAXPAYERS AWARDED THE
15 CREDITS, ALL TAXPAYERS UTILIZING THE CREDITS, THE AMOUNT OF
16 CREDITS APPROVED AND UTILIZED BY EACH TAXPAYER AND THE LOCATIONS
17 OF THE KIZ COMPANIES AWARDED THE CREDITS. THE REPORT SHALL BE A
18 PUBLIC DOCUMENT.

19 SECTION 6. SECTION 2702 OF THE ACT IS AMENDED BY ADDING A
20 SUBSECTION TO READ:

21 SECTION 2702. PETITION FOR REASSESSMENT.

22 * * *

23 (A.2) PETITION FOR REVIEW OF DENIAL OF TAX CREDIT OR TAX
24 BENEFIT.--THE FOLLOWING APPLY:

25 (1) A PETITION FOR REASSESSMENT UNDER SUBSECTION (A) MAY
26 INCLUDE A REQUEST FOR REVIEW OF A DENIAL OF AN APPLICATION
27 FOR A TAX CREDIT OR TAX BENEFIT MADE BY AN ADMINISTERING
28 AGENCY.

29 (2) THE ADMINISTERING AGENCY SHALL HAVE THE RIGHT TO BE
30 REPRESENTED IN ALL PROCEEDINGS BEFORE THE DEPARTMENT. AN

1 APPLICANT FILING A PETITION UNDER PARAGRAPH (1) SHALL PROVIDE
2 A COPY OF THE PETITION TO THE ADMINISTERING AGENCY WITHIN 30
3 DAYS OF THE APPLICANT FILING THE PETITION WITH THE
4 DEPARTMENT.

5 (3) THE DEPARTMENT'S REVIEW OF A PETITION FILED UNDER
6 PARAGRAPH (1) SHALL BE LIMITED TO THE ADMINISTERING AGENCY'S
7 DENIAL OF A TAX CREDIT OR TAX BENEFIT AND SHALL NOT INCLUDE A
8 REVIEW OF ANY UNDERLYING TAX DETERMINATIONS.

9 (4) FOR THE PURPOSES OF THIS SUBSECTION:

10 (I) THE TERMS "APPLICANT," "TAX BENEFIT" AND "TAX
11 CREDIT" SHALL HAVE THE SAME MEANING AS IN SECTION 1701-
12 A.1.

13 (II) THE TERM "ADMINISTERING AGENCY" SHALL HAVE THE
14 SAME MEANING AS IN SECTION 1701-A.1 BUT SHALL NOT INCLUDE
15 THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

16 * * *

17 SECTION 7. SECTION 2703(A) OF THE ACT IS AMENDED BY ADDING
18 PARAGRAPHS AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
19 READ:

20 SECTION 2703. PETITION PROCEDURE.

21 (A) CONTENT OF PETITION.--

22 * * *

23 (2.2) A PETITION FOR REVIEW OF TAX ADJUSTMENT NOT
24 RESULTING IN AN INCREASE IN LIABILITY SHALL STATE:

25 (I) THE TAX TYPE AND TAX PERIODS INCLUDED WITHIN THE
26 PETITION.

27 (II) THE AMOUNT OF THE TAX THAT THE TAXPAYER CLAIMS
28 TO HAVE BEEN ERRONEOUSLY ADJUSTED.

29 (III) THE BASIS UPON WHICH THE TAXPAYER CLAIMS THAT
30 THE ADJUSTMENT IS ERRONEOUS.

1 (2.3) A PETITION FOR REVIEW OF DENIAL OF TAX CREDIT OR
2 TAX BENEFIT SHALL STATE:

3 (I) THE TAX CREDIT OR TAX BENEFIT PROGRAM FOR WHICH
4 THE APPLICANT WAS DENIED.

5 (II) THE AMOUNT OF THE TAX CREDIT OR TAX BENEFIT
6 THAT THE TAXPAYER CLAIMS TO HAVE BEEN ERRONEOUSLY DENIED.

7 (III) THE BASIS UPON WHICH THE TAXPAYER CLAIMS THAT
8 THE DENIAL IS ERRONEOUS.

9 * * *

10 (B.1) PARTICIPATION OF ADMINISTERING AGENCY.--AN
11 ADMINISTERING AGENCY OF A TAX CREDIT OR TAX BENEFIT SHALL BE
12 PERMITTED TO PARTICIPATE IN A HEARING BEFORE THE DEPARTMENT.
13 THE DEPARTMENT SHALL NOTIFY THE ADMINISTERING AGENCY OF THE
14 DATE, TIME AND PLACE WHERE THE HEARING WILL BE HELD. THE
15 ADMINISTERING AGENCY SHALL BE PROVIDED THE OPPORTUNITY TO
16 COMMENT UPON ANY SUBMITTED EVIDENCE AND PROVIDE WRITTEN AND ORAL
17 ARGUMENT TO SUPPORT ITS DENIAL.

18 * * *

19 SECTION 8. SECTION 2704(D.1) OF THE ACT IS AMENDED BY ADDING
20 A PARAGRAPH TO READ:
21 SECTION 2704. REVIEW BY BOARD.

22 * * *

23 (D.1) REPRESENTATION.--

24 * * *

25 (3) AN ADMINISTERING AGENCY OF A TAX CREDIT OR TAX
26 BENEFIT SHALL BE PERMITTED TO PARTICIPATE IN ALL PROCEEDINGS
27 BEFORE THE BOARD. THE BOARD SHALL NOTIFY THE ADMINISTERING
28 AGENCY OF THE DATE, TIME AND PLACE WHERE THE HEARING WILL BE
29 HELD. THE ADMINISTERING AGENCY SHALL BE PROVIDED THE
30 OPPORTUNITY TO COMMENT UPON ANY SUBMITTED EVIDENCE AND

1 PROVIDE WRITTEN AND ORAL ARGUMENT TO SUPPORT ITS DENIAL.

2 * * *

3 SECTION 9. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

4 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

5 (2) THE ADDITION OF SECTION 1706-A.1 OF THE ACT SHALL
6 TAKE EFFECT IN 180 DAYS.

7 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 30
8 DAYS.