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October 3, 2017

The Honorable Tom Wolf
Office of the Governor
508 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Wolf,

We respectfully request that you immediately expedite the issuance of tax credit approval letters by the Department of Community and Economic Development (Department) under the Educational Improvement Tax Credit (EITC) and Opportunity Scholarship Tax Credit (OSTC) programs.

Beginning in mid-August 2017, House members began to hear from their constituents that the Department did not appear to be issuing timely tax credit approvals under the EITC and OSTC programs. When House staff inquired of the Department as to whether the approvals had, in fact, been delayed, House staff were initially told that approvals would be issued near Labor Day per an email dated August 15, 2017. Letters still were not issued in mid-September. On September 19th, House staff were told during a phone conversation that approval letters were being processed but that there continued to be a delay in the sending of approvals which was caused only by a staffing shortage at the Department. During that conversation, the Department expected the letters would be released within 10 to 14 days. Much to our surprise, during a phone conversation with DCED on September 28th, we were told the approvals were not being sent because the Governor did not believe it was prudent to do so without a revenue package.

You will recall in 2016 the General Assembly reformed the EITC and OSTC programs to eliminate any perceived discretion on the part of the Department with respect to the timing of the issuance of tax credit approvals. Section 2005-B of the Public School Code of 1949 provides the Department with clear direction, as follows:

“(g.1) Approval of tax credits.--Unless otherwise requested by the business firm and agreed to by both the business firm and the department, and unless all authorized credits have already been awarded:

- (1) For fiscal year 2016-2017, and each fiscal year thereafter, *the department shall give written notice of its approval to each business firm that submitted a completed application under subsection (g) by*

August 15, or 30 days following receipt of the completed application, whichever is later.

- (2) For fiscal year 2016-2017, and each fiscal year thereafter, ***the department shall give written notice of its approval to each business firm that submitted a completed application under subsection (j)(2) within 30 days following receipt of the completed application.***”

24 P.S. § 2005-B(g.1) (*emphasis added*). As this provision indicates, the Department is required to issue all tax credit approvals no later than 30 days following the Department’s receipt of the tax credit application. The Department has no authority to withhold or delay tax credit approvals for any reason, regardless of whether that reason is a staff shortage or the absence of a fully completed budget agreement. The Department’s delay in issuing the letters of approval is clearly a violation of law.

The legislation passed by the General Assembly and signed into law on July 13, 2016, thereby enacted as Act 86 of 2016, is being ignored. The delay in issuing approval letters is harming children, families and businesses. We request you now take immediate action to expedite the issuance of the approval letters for the ETIC and OSTC programs.

Respectfully,

Kristin Phillips-Hill
Member, 93rd District

Jamie Santora
Member, 163rd District