HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1059 **PRINTERS NO**. 3613 **PRIME SPONSOR**: Hickernell

REVENUE INCREASE / (DECREASE)

FUND	FY 2022/23	FY 2023/24
General Fund	**$0**	**($33,700,000)**
Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund (PHARE)	**$0**	**$20,000,000**

SUMMARY: House Bill 1059, Printer's Number 3613, amends the Tax Reform Code further providing for declarations of estimated tax in Personal Income Tax (PIT); for transfer of Realty Transfer Tax (RTT) to the Pennsylvania Housing Affordability and Rehabilitation Enhancement (PHARE) Fund; providing for Pennsylvania Economic Development for a Growing Economy tax credits; imposing penalties for noncompliance; and making editorial changes.

ANALYSIS: This legislation provides a phase-in schedule for increasing the required quarterly estimated payment threshold under the PIT, increases the amount of RTT collections transferred to the PHARE Fund; and restructures Article XVII-L adding several new subarticles in order to establish the Pennsylvania Economic Development for a Growing Economy Tax Credit Program (PA EDGE).

PIT Quarterly Estimated Payment Threshold

Current law requires a taxpayer to make quarterly estimated payments if the taxpayer's income, other than income from which tax is withheld, can reasonably be expected to exceed $8,000 for the taxable year. This legislation provides a phase-in schedule for increasing the threshold up to $20,000, with an annual increase of $500 for each taxable year thereafter. The changes to the quarterly estimated payment threshold shall apply to taxable years beginning after December 31, 2022, as follows:

Tax Year 2023 and prior	$8,000
Tax Year 2024	$9,500
Tax Year 2025	$11,000
Tax Year 2026	$14,000
Tax Year 2027	$17,000
Tax Year 2028	$20,000
Tax Years 2029 and thereafter	$500 increase each tax year.

Pennsylvania Housing Affordability and Rehabilitation Fund (PHARE)

Under current law, each July 31 the State Treasurer shall transfer from the General Fund to the PHARE Fund an amount equal to forty per cent of the difference between 1) the total amount of the RTT imposed and collected for the prior fiscal year, and 2) the total dollar amount of such tax estimated for the fiscal year beginning July 1, 2014, as contained in the final estimate signed by the Governor for that fiscal year. The current maximum transfer is capped at $40 million per year. This legislation increases the maximum cap amount of RTT transferred to the PHARE Fund to $60 million for fiscal years beginning July 1, 2023, and thereafter.

PA EDGE Program

The various new subarticles, described in more detail below, provide that a qualified taxpayer may apply to receive a tax credit under the following tax credit programs:

- Local Resource Manufacturing (Act 66 of 2022);
- Pennsylvania Milk Processing;
- Regional Clean Hydrogen Hubs; and
- Semiconductor Manufacturing and Biomedical Manufacturing and Research.

The following applies to a qualified taxpayer that has been granted a tax credit under any of the tax credit programs within the PA EDGE Program:

- A taxpayer that has been granted a tax credit shall be ineligible for any other tax credit provided under the Tax Reform Code;
- Unused tax credits must first be offered to a downstream company for a period of 30 days;
- After the initial 30-day period, any remaining unused tax credits must then be offered to an upstream or downstream company for a period of the next 30 days;

Subarticle A – Preliminary Provisions

This subarticle defines the following terms which are applicable to all of the tax credit programs under the PA EDGE Program:

- capital investment;
- new job;
- permanent job;
- full-time-equivalent job;
- company;
- pass-through entity;
- downstream company;
- upstream company.
- department (Department of Revenue);
- natural gas;
- Prevailing Wage Act;
- qualified tax liability;
- tax credit; and
- unit.

Subarticle B – Local Resource Manufacturing Program

Under the current program, enacted as part of Act 66 of 2020, qualified taxpayers may claim a tax credit equal to $0.47 per unit of dry natural gas that is purchased and used in the manufacturing of petrochemicals or fertilizers at the project facility. This legislation increases the current annual cap on the tax credit by $30 million, from $26,666,668 to $56,666,668. Additionally, language is added to the definition of "qualified taxpayer" providing that the construction work to place a project facility into service shall be performed subject to the Steel Products Procurement Act.

Subarticle C – Pennsylvania Milk Processing Program

This new subarticle establishes the Pennsylvania Milk Processing Tax Credit program providing a tax credit equal to $0.05 per gallon of milk purchased and produced from sources exclusively within this Commonwealth and processed at the project facility by a qualified taxpayer.

A "qualified taxpayer" is a company that: (1) purchases and processes milk produced in this Commonwealth at a project facility in this Commonwealth that has been placed in service on or after the effective date of this section; (2) has made a capital investment of at least $500 million in order to construct and place the project facility into service; (3) has created a minimum aggregate total of 1,200 new jobs and permanent jobs; (4) has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during construction of the project facility; (5) has demonstrated that the new jobs created at the project facility are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry; and (6) the construction work to place the project facility into service shall be performed subject to the Steel Products Procurement Act.

The department shall issue up to $15 million in tax credits in a fiscal year to the qualified taxpayer which first meets the qualifications to receive a tax credit. Any amount which remains unallocated shall be issued to the qualified taxpayer which next meets the qualifications. The total amount of tax credits awarded to a qualified taxpayer may not exceed 25% of the capital investment made to construct and place the project facility into service. The tax credit shall apply to the purchase and processing of milk produced in this Commonwealth for a period of 8 years from the date the first project facility is placed into service. The total aggregate amount of tax credits awarded by the department may not exceed $120 million.

Subarticle D – Regional Clean Hydrogen Hubs Program
This new subarticle establishes the Regional Clean Hydrogen Hubs Tax Credit program providing a tax credit equal to any one or more of the following:

(1) $0.81 per kilogram of clean hydrogen purchased from a Regional Clean Hydrogen Hub within this Commonwealth and used in manufacturing at the project facility by a qualified taxpayer.
(2) $0.47 per unit of natural gas that is purchased and used in manufacturing at the project facility by a qualified taxpayer.

A "qualified taxpayer" is a company that: (1) owns and operates a project facility located within a Regional Clean Hydrogen Hub designated by the United States Department of Energy authorized under the Energy Policy Act of 2005; (2) has entered into a commitment letter with the Department of Community and Economic Development to purchase clean hydrogen from a Regional Clean Hydrogen Hub within this Commonwealth for use in manufacturing at a project facility in this Commonwealth which has been placed into service on or after the effective date of this section; (3) has made a capital investment of at least $500 million in order to construct and place the project facility into service; (4) has created a minimum aggregate total of 1,200 new jobs and permanent jobs; (5) has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during construction of the project facility; (6) has demonstrated that the new jobs created at the project facility are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry; and (7) the construction work to place the project facility into service shall be performed subject to the Steel Products Procurement Act.

The department shall issue up to $50 million in tax credits in a fiscal year to the qualified taxpayer which first meets the qualifications to receive a tax credit. Any amount which remains unallocated shall be issued to the qualified taxpayer which next meets the qualifications. The total amount of tax credits awarded to a qualified taxpayer may not exceed 50% of the capital investment made to construct and place the project facility into service. The tax credit shall apply to the purchase of clean hydrogen from sources located in a Regional Clean Hydrogen Hub within this Commonwealth or natural gas used in manufacturing at a project facility for the 20-year period beginning January 1, 2024, and ending December 31, 2043.

Subarticle E – Semiconductor Manufacturing and Biomedical Manufacturing and Research
This new subarticle establishes the Semiconductor Manufacturing and Biomedical Manufacturing and Research Tax Credit program providing an annual tax credit amount determined based upon any one or more of the following:

(1) No more than 2.5% of the capital investment.
(2) No more than 100% of the tax withheld from employees and paid under Article III or $20,000, whichever is less, for each permanent job at the project facility.

A "qualified taxpayer" is a company that: (1) conducts semiconductor manufacturing, biomedical manufacturing or biomedical research in this Commonwealth at a project facility in this Commonwealth that has been placed in service on or after the effective date of this section; (2) has made a capital investment of at least $200 million in order to construct and place the project facility into service; (3) has created a minimum aggregate total of 800 permanent jobs; (4) has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during construction of the project facility; (5) has demonstrated that the new jobs created at the project facility are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry; and (6) the construction work to place the project facility into service shall be performed subject to the Steel Products Procurement Act.

The department shall issue up to $10 million in tax credits in a fiscal year to the qualified taxpayer engaged in semiconductor manufacturing which first meets the qualifications to receive a tax credit and up to $10 million to the qualified taxpayer engaged in biomedical manufacturing or biomedical research which first meets the qualifications to receive a tax credit. Any amounts which remain unallocated shall be issued to the qualified taxpayer which next meets the qualifications. The total amount of tax credits awarded to a qualified taxpayer may not exceed 25% of the capital investment made to construct a project facility. The tax credit shall apply to semiconductor manufacturing, biomedical manufacturing or biomedical research conducted at each project facility for a period of 5 years. The department shall issue up to $20 million in tax credits each fiscal year and the total aggregate amount of tax credits awarded by the department may not exceed $100 million.

The amendments to the PIT quarterly estimated payment threshold shall take effect immediately.
The remainder of the act shall take effect in 60 days.

FISCAL IMPACT: Increasing the PIT quarterly estimated payment threshold will impact the cash flow to the General Fund as some taxpayers currently making required estimated payments will be able to hold onto their money longer. These taxpayers who have income at or below the new higher thresholds will no longer be required to make estimated payments during the tax year and will make one final payment by April 15 of the succeeding tax year. By providing a phase-in schedule, this legislation reduces the immediate cash flow impact to the General Fund and spreads the full impact over the next 5 fiscal years. The Department of Revenue estimates that enactment of this legislation will result in a $13.7 million reduction of revenue to the General Fund in fiscal year 2023-24.

Using the fiscal year 2022-23 Official Estimate for RTT collections, enactment of this legislation will result in the transfer of an additional $20 million from the General Fund to the PHARE Fund in fiscal year 2023-24. To the extent that RTT collections in fiscal years 2023-24 and beyond reach or exceed the $60 million formula cap, an additional $20 million will be transferred in each corresponding future fiscal year.

Establishing the PA EDGE Program will have no adverse fiscal impact on Commonwealth funds in fiscal years 2022-23 and 2023-24. The PA EDGE Program provides an incentive for new facilities within the natural gas, milk processing, clean hydrogen, semiconductor and biomedical industries to locate in the Commonwealth after the effective date of the act. Any tax credits awarded in the future will be awarded after the capital investment and the job creation has already occurred.

In the event that a qualified taxpayer locates a facility in the Commonwealth, makes the required capital investment, creates the number of required new and permanent jobs, and meets all of the other qualifications in constructing the facility under the PA EDGE Program, the following is the amount of tax credits that are available under each program:

- Local Resource Manufacturing (Act 66 of 2022) – increasing the annual amount of tax credits to be awarded by $30 million over a 25-year period allows for an additional $750 million in tax credits to be awarded under the program.
- Pennsylvania Milk Processing – establishing a new tax credit program with an annual cap of $15 million over an 8-year period allows for an additional $120 million in tax credits to be awarded.
- Regional Clean Hydrogen Hubs - establishing a new tax credit program with an annual cap of $50 million over a 20-year period allows for an additional $1 billion in tax credits to be awarded.
- Semiconductor Manufacturing and Biomedical Manufacturing and Research - establishing a new tax credit program with an annual cap of $20 million over a 5-year period allows for an additional $100 million in tax credits to be awarded.

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House Appropriations Committee (R)

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.