

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 1059

**PRINTER NO.** 3613

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund  
Housing Affordability and Rehabilitation  
Enhancement Fund

**DATE INTRODUCED**

March 31, 2021

**PRIME SPONSOR**

Representative Hickernell

**DESCRIPTION**

House Bill 1059, as amended, amends the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971 (TRC), to further provide for declarations of estimated tax, for transfer of tax in realty transfer tax and to establish the PA Economic Development for a Growing Economy (PA EDGE) tax credit program.

**Personal Income Tax – Declarations of Estimated Tax**

The legislation amends section 325(a) (relating to declarations of estimated tax) by providing a phase-in schedule for increasing the threshold for making required quarterly estimated payments under the personal income tax (PIT) from \$8,000 to \$20,000, with an annual increase of \$500 thereafter, as follows:

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

For taxable years beginning after December 31, 2028, the dollar amount threshold requiring estimated personal income tax payments shall increase annually by \$500. House Bill 1059 requires the Department of Revenue to submit a notice containing the new dollar amount for publication in the Pennsylvania Bulletin.

**Realty Transfer Tax – Transfer to PHARE Fund**

The legislation amends TRC § 1102-C.6(b), which currently imposes a \$40 million annual limitation, or cap, on the transfer of realty transfer tax (RTT) to the Housing Affordability and Rehabilitation Enhancement Fund (PHARE Fund), by increasing the annual transfer cap by \$20 million as follows:

- 1) For each fiscal year beginning after June 30, 2019, and ending prior to July 1, 2023, forty million dollars (\$40,000,000); and
- 2) For the fiscal year beginning July 1, 2023, and each fiscal year thereafter, sixty million dollars (\$60,000,000).

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### **PA EDGE Tax Credit Program**

House Bill 1059 also amends Article XVII-L (Local Resource Manufacturing Tax Credit) by further expanding Article XVII-L to include additional subarticles to establish three new tax credit programs as part of the PA EDGE program. Including the existing Local Resource Manufacturing Tax Credit, the PA EDGE program will implement four distinct tax credit programs as follows:

#### Local Resource Manufacturing Tax Credit

The legislation increases the annual limitation, or cap, on the existing Local Resource Manufacturing Tax Credit program established by Act 66 of 2020 from \$26.6 million per year to \$56.6 million per year.

House Bill 1059 maintains the Local Resource Manufacturing Tax Credit, increases the annual cap and makes technical changes to incorporate it into the new PA EDGE tax credit program. The legislation increases the annual cap by making up to \$50 million of annual tax credits available to a large project facility and also ensures that up to \$6.6 million remains available to a smaller project facility as contemplated under Act 66 of 2020.

#### Pennsylvania Milk Processing Tax Credit

House Bill 1059 establishes a new Pennsylvania Milk Processing Tax Credit as part of the PA EDGE tax credit program. The legislation provides for a tax credit equal to \$0.05 per gallon of milk purchased and produced from within the Commonwealth and processed at a project facility by a qualified taxpayer. A qualified taxpayer must make a capital investment of at least \$500 million to construct the facility, make a good faith effort to use the local labor market and create at least 1,200 permanent jobs and new jobs.

House Bill 1059 authorizes \$15 million in tax credits annually for milk processing over a period of eight years beginning when the project facility is first placed into service. The total aggregate amount of tax credits awarded may not exceed 25% of the capital investment made to construct a project facility and is limited to no more than \$120,000,000 in tax credits over the life of the program. The program operates on a first come, first served basis, so the first taxpayer meeting the requirements of a qualified taxpayer may receive up to \$15 million in tax credits each year. Any amount remaining shall be available to additional qualified taxpayers.

The legislation contains various provisions that are commonly used in other tax credit programs in order to implement and administer the program, including, but not limited to, the following:

- A taxpayer must first use the credit against its qualified tax liability in the taxable year in which the credit was approved;
- The credit may be applied to up to 20% of the qualified taxpayer's qualified tax liability;

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- A taxpayer that receives this credit will be ineligible for any other tax credit under the Tax Reform Code or tax benefit under TRC § 1701-A.1;
- The credit cannot be carried back, carried forward or used to obtain a refund;
- Sale/Assignment:
  - Unused tax credits may be sold or assigned;
  - A tax credit must be offered to an upstream/downstream company first;
  - A purchaser/assignee must claim the credit in the calendar year in which the purchase/assignment is made; and
  - A purchaser/assignee may use the tax credit against up to 50% of the qualified taxable income.
- A pass-through entity such as a partnership and S-corporation can pass the tax credits through to its shareholders, members or partners.

### Regional Clean Hydrogen Hub Tax Credit

House Bill 1059 establishes a new Regional Clean Hydrogen Hub Tax Credit as part of the PA EDGE tax credit program. The tax credit program is limited to qualified taxpayers that are located within a Regional Clean Hydrogen Hub designated by the United States Department of Energy under section 813 of the federal Energy Policy Act of 2005.

Section 813(a) of the federal Energy Policy Act of 2005 contains a definition of "regional clean hydrogen hub" that was placed into the act by section 40314 of the federal Infrastructure Investment and Jobs Act. The term "regional clean hydrogen hub" means a network of clean hydrogen producers, potential clean hydrogen consumers, and connective infrastructure located in close proximity.

The legislation provides for a tax credit equal to the following: 1) \$0.81 per kilogram of clean hydrogen purchased from a Regional Clean Hydrogen Hub within the Commonwealth and used in manufacturing at the project facility; and 2) \$0.47 per unit of natural gas, purchased and used in manufacturing at the project facility by a qualified taxpayer. A qualified taxpayer must make a capital investment of at least \$500 million to construct the facility, make a good faith effort to use the local labor market and create at least 1,200 permanent jobs and new jobs.

House Bill 1059 authorizes \$50 million in tax credits annually for the Regional Clean Hydrogen Hub tax credit program. The total aggregate amount of tax credits awarded may not exceed 50% of the capital investment made to construct a project facility. The program operates on a first come, first served basis, so the first taxpayer meeting the requirements of a qualified taxpayer may receive up to \$50 million in tax credits each year. Any amount remaining shall be available to additional qualified taxpayers. The program applies for a twenty-year period beginning January 1, 2024 and ending December 31, 2043.

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The legislation includes the same provisions utilized throughout Article XVII-L to implement and administer the program previously enumerated under the Pennsylvania Milk Processing description.

### Semiconductor Manufacturing, Biomedical Manufacturing and Research Tax Credit

House Bill 1059 establishes a new Semiconductor Manufacturing, Biomedical Manufacturing and Research Tax Credit as a component of the PA EDGE tax credit program. A qualified taxpayer must make a capital investment of at least \$200 million to construct the project facility, make a good faith effort to use the local labor market and create at least 800 permanent jobs.

The legislation provides for an annual tax credit equal to the following: 1) no more than 2.5% of the capital investment; and 2) the amount of personal income tax withheld on behalf of employees, up to \$20,000, for each permanent employee of the qualified taxpayer.

House Bill 1059 authorizes \$20 million in tax credits annually for semiconductor manufacturing, biomedical manufacturing or biomedical research. Each year, \$10 million is allocated for semiconductor manufacturing, and \$10 million is allocated for biomedical manufacturing or biomedical research. The total aggregate amount of tax credits awarded may not exceed 25% of the capital investment made to construct a project facility and is limited to no more than \$100,000,000 in tax credits over the life of the program, which endures for a period of five years for each qualified taxpayer. The program operates on a first come, first served basis, so the first taxpayer meeting the requirements of a qualified taxpayer may receive up to \$10 million in tax credits each year, and any amount remaining shall be available to additional qualified taxpayers.

The legislation includes the same provisions utilized throughout Article XVII-L to implement and administer the program previously enumerated under the Pennsylvania Milk Processing Tax Credit description.

### Additional PA EDGE Program Requirements

The PA EDGE program applies the Prevailing Wage Act to certain aspects of each new tax credit program with regard to new jobs (i.e., construction jobs) created in the same manner currently utilized for the existing Local Resource Manufacturing Tax Credit enacted in Act 66 of 2020.

The program requires construction work to place a project facility into service to be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

### Technical Section

The amendment of section 325(d) with regard to the date for filing a declaration of estimated tax shall apply to taxable years beginning after December 31, 2022. This act shall take effect in 60 days.

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**FISCAL IMPACT:**

**Personal Income Tax – Declaration of Estimated Tax**

The Department of Revenue (department) supports House Bill 1059 and indicates the legislation will have no fiscal impact for Fiscal Year 2022-23. The General Fund fiscal impact for future fiscal years is estimated by the department to be as follows:

*Millions of Dollars*

FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
\$0	-\$13.7	-\$7.9	-\$16.5	-\$18.7

The department’s position is that increasing the threshold will provide relief to certain seniors, small business owners and individuals with secondary sources of income from having to remit quarterly estimated PIT payments because of a low threshold.

Additionally, the department anticipates the need to process 78,566 fewer PIT payments by tax year 2024, increasing to 311,215 fewer PIT payments processed by tax year 2028. Under current law, taxpayers with \$8,000 of non-wage income at the PIT rate of 3.07% are required to make estimated payments totaling just under \$246 annually (i.e., \$61.40 per quarter). Therefore, the department may realize modest administrative savings as a result of this legislation.

Increasing the PIT quarterly estimated payment threshold will impact the cash flow to the General Fund as taxpayers currently making required estimated payments, who have non-wage 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 impact over future fiscal years.

**Realty Transfer Tax – Transfer to PHARE Fund**

House Bill 1059 will reduce General Fund revenue of the Commonwealth by transferring additional money from realty transfer tax collections to the PHARE Fund. In turn, revenue deposited into the PHARE Fund will be increased by the amount of the General Fund decrease. The legislation increases the statutory transfer limitation by \$20 million annually from \$40 million to \$60 million beginning in Fiscal Year 2023-24 and each fiscal year thereafter.

**PA EDGE Tax Credit Program**

The PA EDGE program authorizes tax credits of up to \$141.6 million annually. Under current law, tax credits of \$26.6 million are authorized for the Local Resource Manufacturing Tax Credit, so the legislation allows for \$115 million of new tax credits annually. Due to the amount of time needed for these large-scale project facilities to become operational, there will be no fiscal impact in the current fiscal year.