HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2565 **PRINTER'S NO. 3792** **PRIME SPONSOR: Samuelson**

COST / (SAVINGS)

FUND	FY 2024/25	FY 2025/26
General Fund	See Fiscal Impact	See Fiscal Impact

SUMMARY: HB 2565 PN 3792 makes changes to provisions within Article XVII-L of the Tax Reform Code. This legislation will take effect in 60 days.

ANALYSIS: This legislation amends the Tax Reform Code of 1971 Article XVII-L (Pennsylvania Economic Development for Growing Economy) to make the following PA EDGE tax credit changes:

- Repeals the ***Local Resource Manufacturing*** (Subarticle B) and ***Pennsylvania Milk Processing*** (Subarticle C) tax credits;
- Creates the ***Reliable Energy Investment Tax Credit*** (Subarticle B.1):
    - To qualify, a facility must:
        - Make a $250 million capital investment in PA
        - Utilize at least 1 million work hours
        - Produce baseload "reliable energy" – defined as a facility that will generate an amount of clean energy greater than the product of 70 percent if its output multiplied by 8,760 hours
        - Be at least 100 megawatts (MW) of new or additional capacity
    - Base credit is $300,000 per MW of new capacity brought online
    - Credit decreases in value if wholesale electricity prices are high, which would imply that the generator would be making enough to support the project from the market. For every dollar the wholesale power price over the prior 3 years exceeds $65/MWh, the credit decreases by 1.5%, meaning if electricity prices reach $100 /MWh, the credit would only be $139,500 per MW (46.5% of the original value) and if prices reach $131/MWh, no credit would be given
    - Tax credit is capped at $100 million
- Creates ***Pennsylvania Milk Processing Tax Credit*** (Subarticle C.1)
    - To be eligible, a taxpayer must:
        - Purchase and process milk produced in PA into Class I, Class II, Class III, or Class IV milk product as defined by the Federal Milk Marketing Order Program at a project facility in this Commonwealth
        - Meet one of the following:
            - Has made a capital investment of at least $50 million
            - Has created at least 100 new permanent jobs
        - Make good faith efforts to recruit and employ, in addition to encourage contractors or subcontractors to recruit and employ workers from the local market
        - Demonstrate that jobs are being paid at least prevailing wage

        - Comply with the Steel Products Procurement Act in the construction of the project facility
    - Availability of Credit:
        - DCED may issue up to $15 million in tax credits per fiscal year
        - Lifetime limit of $120 million
        - tax credit will apply to the purchase and processing of milk produced in Pennsylvania for a period of 8 years from the date the first project facility is placed into service
        - Qualified taxpayers are eligible for a tax credit as follows:
            - $0.20/gal of milk purchased and produced exclusively within Pennsylvania and processed at the project facility
            - If at least 80 percent organic dairy is used, the qualifying taxpayer could receive an additional $0.10/gal of milk
            - Total amount of tax credit cannot exceed 25 percent of the capital investment into the facility
    - Credit Usability:
        - Tax credit can be applied against up to 20 percent of the qualified taxpayer's tax liability during the tax year when the credit was approved
    - Sale or Assignment of Credit:
        - Sale or assignment of credit is allowed; however, a qualified taxpayer must first use the credit against their tax liability during the tax year the credit was approved
        - Purchaser or assignee of credit:
            - Must claim the credit in the year the purchase/assignment was made
            - Can apply the credit against up to 50 percent of tax liability
            - Cannot resell or reassign the credit
    - Pass-Through Entities:
        - Transferee may use the credit against up to 20 percent of transferee's tax liability
        - Transferee may not sell or assign the credit
    - Other provisions:
        - DCED and Department of Revenue are required to jointly submit an annual report to the General Assembly summarizing effectiveness of the credit

- Updates the ***Semiconductor Manufacturing Tax Credit*** (Subarticle E):
    - "*Qualified taxpayer*" - is an eligible business able to receive tax credit if:
        - It conducts semiconductor manufacturing, biomedical manufacturing or biomedical research in this commonwealth at a project facility in PA
        - Has made capital investment of at least $150 million
        - Has created at least 100 full-time jobs
        - Has made good faith efforts to recruit and employ, in addition to encourage contractors or subcontractors to recruit and employ workers from the local market
        - Has demonstrated that jobs are being paid at least prevailing wage
        - Is an early-stage semiconductor business:
            - A business with less than $10 million in revenue
            - Operates in areas of research and design of semiconductor materials, semiconductor devices, or semiconductor packing and testing
            - Has made at least $3 million investment into research and development during the previous two years
    - Availability of Credit:
        - Department of Revenue (DOR) must issue a minimum of $1 million in tax credits per fiscal year, up to maximum of $8 million
        - DOR must issue a minimum of $100,000 in credits to early-stage semiconductor business, up to maximum of $2 million
        - Remaining $10 million allocated for Subarticle E, would be available for biomedical research businesses

- Creates ***Sustainable Aviation Fuel Tax Credit*** (Subarticle E.1):
    - To be eligible a taxpayer must own a project facility that manufactures sustainable aviation fuel and meets all of the following requirements:
        - Has entered into a commitment letter to produce sustainable aviation fuel at a facility located in this commonwealth
        - Has made a capital investment of at least $250 million to construct a project facility and place it in service
        - Has created a minimum aggregated total of 400 new and permanent jobs
        - Has made good faith efforts to recruit and employ, in addition to encourage contractors or subcontractors to recruit and employ workers from the local market;
        - Has demonstrated that jobs are being paid at least prevailing wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry
        - Comply with the Steel Products Procurement Act (Act 3 of 1978) in the construction of the project facility
        - A qualified taxpayer must utilize an application process administered by the Department of Revenue (DOR)
            - Applications must be submitted by March 1 and DOR must review and issue an approval or disapproval by May 1, 2025, and each May 1 thereafter
    - Availability of Credit:
        - Each fiscal year, up to $15 million of the tax credits made available under the Regional Clean Hydrogen Hubs tax credit program which remains unallocated shall be made available for Sustainable Aviation Fuel Tax Credit
        - The tax credit would be equal to $0.75/gal of sustainable aviation fuel produced at a project facility
        - The aggregate amount of tax credits awarded to a qualified taxpayer may not exceed 25 percent of the capital investment made to construct and place a project facility into service in Pennsylvania
    - Credit Usability:
        - Tax credits can be applied against up to 20 percent of recipient's qualified tax liabilities incurred in the taxable year for which tax credit was approved
    - Sale or Assignment of Tax Credit:
        - Sale or assignment of credit is allowed, however a qualified taxpayer must first use the credit against their tax liability during the tax year when the credit was approved
        - Qualified taxpayers must apply to the Department of Revenue for approval to sell or assign unused portion of the credit
        - Purchaser or assignee of credit:
            - Must claim the credit in the year the purchase/assignment was made
            - Can apply the credit against up to 50 percent of tax liability
            - Cannot resell or reassign the credit
    - Pass-Through Entities:
        - If pass-through entity has an unused tax credit, it may elect to transfer all or a portion of the unused credit to shareholders, partners, or members in proportion to the share of the entity's income to which shareholder, partner, or a member is entitled
            - Unused tax credit cannot be claimed by both the entity and a shareholder/partner/member
            - Transferee may use the tax credit against up to 20 percent of the transferee's qualified tax liability
    - Other provisions:
        - Department of Revenue is required to submit an annual report to the General Assembly summarizing the effectiveness of the tax credit, in addition to making the report available on its website

FISCAL IMPACT: The enactment of this legislation would have a fiscal impact on commonwealth funds, specifically the General Fund. The fiscal impact varies based on each component/subarticle within the PA EDGE tax credit program. The table below highlights the fiscal implications of the bill:

Article XVII-L					
PA Economic Development for Growing Economy (PA EDGE) Tax Credits					
($ amounts in millions)					
Cost / (Savings)					
Subarticle	***Tax Credit Name***	***HB 2565 Action***	***Fiscal Implication 2024/25***	***Fiscal Implication 2025/26***	***Effective Date***
Subarticle B	Local Resource Manufacturing	Repeals	$ (56.67)	$ (56.67)	
Subarticle B.1	Reliable Energy Investment	Creates	$ 100.00	$ 100.00	Jan 1, 2025
Subarticle C	Pennsylvania Milk Processing	Repeals	$ (15.00)	$ (15.00)	
Subarticle C.1	Pennsylvania Milk Processing	Creates	$ 15.00	$ 15.00	Date a facility is placed into service
Subarticle D	Regional Clean Hydrogen Hubs	Updates	$ (1.00)	$ (1.00)	
Subarticle E	Semiconductor Manufacturing and Biomedical Manufacturing and Research	Updates	No Change	No Change	
Subarticle E.1	Sustainable Aviation Fuel	Creates	$ -	$ -	Jan 1, 2027
		Combined Fiscal Impact	$ 42.33	$ 42.33	

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House Appropriations Committee (D)

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