HB 1308

Department of Legislative Services

2011 Session

FISCAL AND POLICY NOTE

House Bill 1308 (Delegate Gilchrist, *et al.*)
Ways and Means

Tax Incentives and Benefits - Credits and Subtraction Modifications

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This bill converts specified credits against the State income tax to subtraction modifications.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund revenues increase by $29.1 million in FY 2012. Transportation Trust Fund (TTF) revenues increase by $3.4 million, and Higher Education Investment Fund (HEIF) revenues increase by $1.3 million in FY 2012. Future year revenues reflect annualization as well as future tax credit termination provisions. General fund expenditures increase by $119,000 in FY 2012 due to administrative expenses at the Comptroller's Office.

($ in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	$29.1	$20.4	$23.1	$23.0	$22.3
SF Revenue	$4.7	$3.2	$3.6	$4.0	$4.2
GF Expenditure	$.1	$0	$0	$0	$0
Net Effect	$33.6	$23.6	$26.7	$27.0	$26.5

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local highway user revenues will increase as a result of credits no longer being claimed against the corporate income tax, while local income tax revenues decrease due to credits being claimed as subtraction modifications. Net local revenues will decrease by $186,000 in FY 2012 and by $305,200 in FY 2016. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: The bill converts the following income tax credits to subtraction modifications:

- **Enterprise Zones:** Businesses located in a Maryland enterprise zone may be entitled to a tax credit for wages paid to newly hired employees. The credits are based on the wages paid during the taxable year to each qualified employee. The business must hire at least one employee who: (1) is a new employee or an employee rehired after being laid off for more than one year; (2) worked for the business for at least 35 hours per week for six months or more; (3) earns at least 150% of the federal minimum wage; (4) spends at least 50% of the workday either in the enterprise zone or on activities of the business resulting from its location in the enterprise zone or a focus area within the zone; (5) is hired after the date the enterprise zone was created or the date the business located in the enterprise zone or focus area, whichever is later; and (6) is not hired to replace an individual employed by the business within the last four years.

- **Job Creation:** Businesses that expand or establish a facility in Maryland resulting in the creation of at least 60 new jobs within a two-year period may be eligible to claim the job creation tax credit. The new jobs must be full-time, permanent, filled, located in Maryland, and pay at least 150% of the federal minimum wage. The threshold is lowered to 30 new jobs if the average salaries of the new jobs are highly paid as determined by a sliding scale relative to the average State salary, and 25 new jobs if the new jobs are created within a State priority funding area (PFA). The value of the credit depends on the number of jobs created, the wages of those jobs in the year the credit was claimed, and whether the jobs were created in a revitalization area. The total credit claimed cannot exceed $1 million for any one business. The program terminates January 1, 2014.

- **One Maryland Economic Development:** Businesses that establish or expand a business facility in a PFA located in a qualified distressed county may be entitled to tax credits for costs related to the new or expanded facility. An available credit for start-up costs is the lesser of 100% of eligible start-up costs (up to $500,000), less any credits taken in prior years, or $10,000 multiplied by the number of employees that have filled the newly created, qualified positions. The credit for project costs is the lesser of 100% of eligible project costs (up to $5 million), less any credits taken in prior years, or the State income tax liability for the taxable year from the project. Qualifying costs and expenses include those incurred with the acquisition, construction, rehabilitation, installation, and equipping of an eligible project. The business must expend at least $500,000 in project costs. An enhanced credit is available if the created positions are paid 250% or more of the minimum wage.

- **Neighborhood Stabilization:** Tax credits can be claimed against the income tax for property taxes paid for certain owner-occupied homes in designated neighborhoods.

- **Clean Energy Incentive:** The amount of this tax credit is 0.5 cents for each kilowatt hour of electricity produced for each qualifying facility that is co-fired with coal and equal to 0.85 cents for all other facilities. The credit can be claimed in each year equal to a maximum of one-fifth of the total value stated in the taxpayer's initial credit certificate. The credit may be claimed for facilities that begin producing qualified energy before January 1, 2016.

- **Neighborhood Partnership Program:** A business or individual can claim tax credits for 50% of the contributions made to approved projects conducted by nonprofit organizations in a PFA. The maximum value of the credit is $250,000. A maximum of $2.0 million in contributions can be approved in any fiscal year, resulting in $1.0 million in tax credits.

- **Work-based Learning Program:** Businesses that hire students as part of an approved work-based learning program may be entitled to a tax credit for a portion of the wages paid to these individuals. The program allows approved employers to claim tax credits in the amount of 15% of the wages paid to secondary or postsecondary students between 16 and 23 years of age who are participating in work-based learning programs. The total credit claimed per student cannot exceed $1,500 for all tax years. A maximum of 1,000 students annually may be approved for participation in the tax credit program.

- **Commuter Benefits:** Maryland-based businesses that provide commuter benefits for employees may be entitled to a tax credit for a portion of the amounts paid during the tax year. Commuter benefits include certain costs for an employee's travel to and from home and the workplace, a Guaranteed Ride Home program, or a parking "Cash-out" program. The tax credit is 50% of the cost of providing the commuter benefits up to a maximum of $50 per month (based on a $100 employer contribution) for each employee.

- **Qualified Ex-felons:** A business entity may claim a tax credit for wages paid to a qualified ex-felon employee. For each taxable year, a credit is allowed in an amount equal to (1) 30% of up to the first $6,000 of the wages paid to the qualified employee during the first year of employment; and (2) 20% of up to the first $6,000 of the wages paid to the qualified employee during the second year of employment. The program terminates December 31, 2011.

- **Maryland-mined Coal:** Maryland public service companies and specified co-generators and electricity suppliers can claim a $3 per ton credit for the amount of Maryland-mined coal purchased in a calendar year. Chapter 247 of 2006 capped the maximum annual amount of credits that can be claimed through tax year 2020, and terminates the credit beginning in tax year 2021. The maximum amount of total credits that can be claimed is $4.5 million annually in tax years 2009 through 2012, $6.0 million annually in tax years 2013 and 2014, and $3.0 million annually in tax years 2015 through 2020.

- **Employer-provided Long-term Care:** An employer may claim a credit equal to 5% of the costs incurred to provide long-term care insurance as part of an employee benefit package. The amount of the credit may not exceed the lesser of $5,000 or $100 for each employee in the State covered by one of these long-term care insurance policies.

- **Long-term Care Insurance:** A taxpayer may claim a credit against the State income tax for no more than $500 of the eligible premiums paid for long-term care insurance for coverage of the individual or the individual's spouse, parent, stepparent, child, or stepchild. The credit may not be claimed by more than one taxpayer with respect to the same insured individual and can only be claimed on behalf of a State resident. In addition, the credit may not be claimed with respect to an insured individual if (1) the insured individual was covered by long-term care insurance at any time before July 1, 2000; or (2) the credit has been claimed by any taxpayer for any individual's long-term care insurance policy in any prior taxable year.

- **Research and Development:** Businesses that incur qualified research and development expenses in Maryland are entitled to a credit for those expenses. The total credits approved may not exceed $6 million in a tax year. There are two types of R&D credits available to businesses: (1) the basic research and development credit is equal to 3% of the Maryland qualified research and development expenses paid during the tax year, up to the Maryland base amount; and (2) the growth research and development credit is equal to 10% of the Maryland qualified research and development expenses paid during the year that exceed the Maryland base amount.

- **Green Buildings:** Businesses that construct or rehabilitate a building that conforms to specific standards intended to save energy and to mitigate environmental impacts may take a credit for a portion of the costs incurred. The building must be located in either a PFA or a qualified brownfields site and cannot be located in a wetlands area. The total amount of credits certified for all taxpayers each year (calendar 2003 through 2011) is subject to certain limitations.

- **Quality Teacher Incentives:** Public school teachers who pay tuition during the tax year for graduate-level courses to maintain either a standard professional or advanced professional certification may be entitled to an income tax credit. An individual must be employed by a local board of education and be a classroom teacher in a public school, receive a satisfactory performance evaluation for the teaching, hold a standard professional certificate or an advanced professional certificate, and have completed the graduate-level courses with a grade of B or better. The courses taken must be required to maintain certification and the cost of the courses must exceed any amount reimbursed by the county. The credit is 100% of the unreimbursed amount of tuition paid, or $1,500, whichever is less.

- **Preservation and Conservation Easements:** Chapter 676 of 2001 established the preservation and conservation easement tax credit applicable to easements conveyed to the Maryland Agricultural Land Preservation Foundation or the Maryland Environmental Trust. The amount of the credit allowed is the amount by which the fair market value of the property before the conveyance of the easement exceeds the fair market value of the property after the conveyance of the easement. The amount of the credit is reduced by the amount of any payment received for the easement. The amount of the credit allowed for any taxable year may not exceed the lesser of the State income tax liability or $5,000.

- **Aquaculture Oyster Float:** A taxpayer who purchases an aquaculture oyster float on or after July 1, 2002, can claim a tax credit. An aquaculture oyster float is designed to grow oysters to help restore the oyster population in certain bodies of water. The float must be specifically designed to grow oysters at or under a homeowner's pier. The credit is calculated at 100% of the purchase price of the float or $500, whichever is less.

- **Maryland Disability Employment:** The Qualifying Employees with Disabilities Tax Credit allows employers who hire a qualified individual with disabilities to claim a tax credit for certain wages paid to the employee and for child care and transportation expenses paid on behalf of the employee in the first two years of employment. Employers can claim a credit equal to 30% of the first $6,000 of the wages paid to the employee (20% in year two). Employers can claim a credit of up to $600 of child care or transportation expenses paid on behalf of qualifying employees in the first year of employment ($500 in year two). The program terminates June 30, 2011.

- **Bio-heating Oil:** Businesses may claim a credit for each gallon of heating oil blended with biodiesel purchased for space or water heating. For any tax year, the credit allowed under this section may not exceed $500, or the State income tax for that tax year. The credit is available for tax years 2008 through 2012.

- **Businesses that Create New Jobs:** Businesses located in Maryland that create a certain number of new positions and establish or expand business facilities in the State may be entitled to a tax credit. To be eligible for the credit, businesses must first have been granted a local property tax credit for the new or expanded business facility.

- **Cellulosic Ethanol Technology Research and Development:** A State income tax credit is available for cellulosic ethanol technology research and development conducted in the State. The amount of the tax credit is equal to 10% of the eligible expenses incurred and cannot exceed the tax liability for that year. The total amount of credits available in each year is limited to $250,000. The credit is available for research and development expenses incurred before January 1, 2017.

Except as otherwise noted, the bill applies beginning in tax year 2011. If a taxpayer's tax year for income tax purposes is not the calendar year, the amount of credit allowable for the tax year that ends in calendar 2011 is limited to amounts based on wages or other expenses paid or incurred on or before June 30, 2011.

Background: Prior to 1995, with the exception of the Earned Income Credit, income tax credits were not a significant feature of Maryland income tax policy. Other than the Earned Income Credit and the credits allowed for withholding and estimated tax payments and for income taxes paid to another state, the only credits allowed were the Enterprise Zone Credit and the Maryland-mined Coal Credit. Since 1995, however, there has been considerable legislative activity regarding income tax credits, with a significant number of new credits being enacted. The proliferation of tax credits has resulted in a sizeable decrease in State revenues – from about $50 million in tax year 1994 to an estimated $275 million in total individual and business tax credits claimed or earned in tax year 2008.

State Revenues: The bill converts specified tax credits to subtraction modifications beginning with tax year 2011. As a result, general fund revenues will increase by $29.1 million in fiscal 2012. TTF revenues will increase by $3.4 million and HEIF revenues will increase by $1.3 million in fiscal 2012.

This estimate reflects the amount of credits claimed under current law and the changes in estimated payments. Future year revenues reflect annualization, the estimated amount of credits claimed, and tax credit termination provisions. **Exhibit 1** shows the estimated impact on State and local revenues.

State and Local Revenue Impacts
Fiscal 2012-2016
($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Total Revenues	**33.7**	**23.6**	**26.7**	**27.0**	**26.5**
General Fund	29.1	20.4	23.1	23.0	22.3
HEIF	1.3	0.9	1.0	1.1	1.1
TTF	3.4	2.3	2.7	2.9	3.1
MDOT	3.1	2.1	2.4	2.6	2.7
LHUR	0.3	0.3	0.3	0.3	0.4
Local Income Tax Revenue	(0.5)	(0.6)	(0.6)	(0.6)	(0.7)
Net Local Impact	**(0.2)**	**(0.3)**	**(0.3)**	**(0.3)**	**(0.3)**

LHUR = Local Highway User Revenues

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of $119,000 in fiscal 2012 for income tax form change expenses. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Local Revenues: Local highway user revenues will increase as a result of credits no longer being claimed against the corporate income tax; however, local income tax revenues will decrease from credits to be claimed as subtraction modifications against the personal income tax. Net local revenues will decrease by $186,000 in fiscal 2012 and by $305,200 in fiscal 2016, as shown in Exhibit 1.

Additional Information

Prior Introductions: HB 1188 of 2009, HB 849 of 2004, and HB 1084 of 2003 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Comptroller's Office, Maryland Insurance Administration, State Department of Assessments and Taxation, Department of Legislative Services

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