

SENATE BILL 955

C8, Q3

8lr3012

By: **Senator Eckardt**

Introduced and read first time: February 5, 2018

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Angel Investor Tax Credit Program**

3 FOR the purpose of allowing a credit against the State income tax for a certain percentage
4 of an investment, not to exceed a certain amount, made in certain qualified
5 innovation businesses; requiring qualified innovation businesses to meet certain
6 certification requirements; requiring a qualified investor to meet certain
7 requirements in order to be eligible for the credit; requiring the qualified investor to
8 make a certain application, at least a certain number of days before making an
9 investment, to the Department of Commerce; requiring the Department to certify,
10 within a certain number of days of the application, the amount of the credit;
11 requiring, under certain circumstances, the Secretary to issue initial and final tax
12 credit certificates; requiring a qualified investor to make a certain investment and
13 provide certain proof within a certain period of time; authorizing, under certain
14 circumstances, the Department to rescind a tax credit; providing that the Secretary
15 may not certify eligibility for tax credits for investments in a single qualified
16 innovation business that in the aggregate exceed a certain percentage of the total
17 appropriations to a certain Reserve Fund for that fiscal year; requiring the Secretary
18 to certify a certain percentage of tax credits for investments in certain qualified
19 innovation businesses; providing for the carryforward of the credit; establishing the
20 Maryland Angel Investor Tax Credit Reserve Fund as a special, nonlapsing fund;
21 requiring the Department to administer the Reserve Fund; requiring the State
22 Treasurer to hold the Reserve Fund; specifying the contents of the Reserve Fund;
23 requiring the Governor to make an appropriation to the Reserve Fund each fiscal
24 year; requiring, each quarter, that the Department notify the Comptroller of a
25 certain amount and the Comptroller to transfer a certain amount from the Reserve
26 Fund to the General Fund; providing for the recapture of the credit under certain
27 circumstances; authorizing the Department, after a certain notification and
28 opportunity for appeal, to revoke a credit; requiring a qualified innovation business
29 that receives an investment to report certain information each year to the
30 Department; requiring the Department to report certain information in a certain
31 manner on or before a certain date each year; requiring the Department, in

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 consultation with the Comptroller, to adopt certain regulations; defining certain
2 terms; providing for the application of this Act; providing for the termination of this
3 Act; and generally relating to a State income tax credit for certain qualified business
4 investments.

5 BY repealing and reenacting, with amendments,
6 Article – Economic Development
7 Section 2.5–109(a)(4)
8 Annotated Code of Maryland
9 (2008 Volume and 2017 Supplement)

10 BY adding to
11 Article – Tax – General
12 Section 10–746
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2017 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Economic Development**

18 2.5–109.

19 (a) In this section, “economic development program” means:

20 (4) each of the tax credit programs administered by the Department,
21 including:

22 (i) the Film Production Activity Tax Credit;

23 (ii) the Job Creation Tax Credit;

24 (iii) the One Maryland Economic Development Tax Credit;

25 (iv) the Biotechnology Investment Incentive Tax Credit;

26 (v) the Research and Development Tax Credit;

27 (vi) the Security Clearance Administrative Expenses and
28 Construction and Equipment Costs Tax Credit;

29 (vii) the Cybersecurity Investment Incentive Tax Credit; [and]

30 (viii) the Aerospace, Electronics, or Defense Contract Tax Credit; AND

31 **(IX) THE ANGEL INVESTOR TAX CREDIT.**

Article – Tax – General

1

2 10-746.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) (I) “COMPANY” MEANS ANY ENTITY OF ANY FORM DULY
6 ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE
7 PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

8 (II) “COMPANY” DOES NOT INCLUDE A SOLE PROPRIETORSHIP.

9 (3) “DEPARTMENT” MEANS THE DEPARTMENT OF COMMERCE.

10 (4) (I) “INVESTMENT” MEANS THE CONTRIBUTION OF MONEY IN
11 CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A RISK
12 OF LOSS, TO A QUALIFIED INNOVATION BUSINESS IN EXCHANGE FOR STOCK, A
13 PARTNERSHIP OR MEMBERSHIP INTEREST, CONVERTIBLE DEBT, OR OTHER
14 OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS,
15 TITLE TO WHICH OWNERSHIP INTEREST SHALL VEST IN THE QUALIFIED INVESTOR.

16 (II) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IS AT
17 RISK OF LOSS WHEN THE REPAYMENT OF THE INVESTMENT DEPENDS ENTIRELY ON
18 THE SUCCESS OF THE BUSINESS OPERATIONS OF THE QUALIFIED INNOVATION
19 BUSINESS.

20 (5) “LEGALLY OWNED OR LICENSED” INCLUDES PATENTED, PATENT
21 PENDING, SUBJECT OF TRADE SECRETS, OR COPYRIGHTED.

22 (6) “PASS-THROUGH ENTITY” MEANS A BUSINESS ENTITY THAT IS A
23 SUBCHAPTER S CORPORATION, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR
24 A TRUST THAT HAS NO BUSINESS OPERATIONS AND IS FORMED FOR THE SOLE
25 PURPOSE OF MAKING INVESTMENTS.

26 (7) (I) “QUALIFIED INNOVATION BUSINESS” MEANS A COMPANY
27 THAT:

28 1. HAS MET THE CRITERIA SET FORTH IN SUBSECTION
29 (C) OF THIS SECTION; AND

30 2. IS IN ONE OF THE FOLLOWING INDUSTRIES:

1 A. ADVANCED MATERIALS AND MANUFACTURING
2 SYSTEMS;

3 B. AEROSPACE;

4 C. AGRICULTURAL TECHNOLOGY;

5 D. CLEAN ENERGY AND NATURAL RESOURCES;

6 E. ELECTRONIC DEVICE TECHNOLOGY;

7 F. HEALTH AND MEDICAL TECHNOLOGY;

8 G. INFORMATION TECHNOLOGY;

9 H. NANOTECHNOLOGY; AND

10 I. TRANSPORTATION AND LOGISTICS.

11 (II) “QUALIFIED INNOVATION BUSINESS” DOES NOT INCLUDE:

12 1. A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY
13 UNDER § 10-725 OF THIS SUBTITLE; OR

14 2. A QUALIFIED MARYLAND CYBERSECURITY COMPANY
15 UNDER § 10-733 OF THIS SUBTITLE.

16 (8) (I) “QUALIFIED INVESTOR” MEANS AN ACCREDITED INVESTOR
17 UNDER 17 C.F.R. § 230.501 THAT IS AN INDIVIDUAL, A MARRIED COUPLE THAT
18 FILES A JOINT TAX RETURN, OR A PASS-THROUGH ENTITY CERTIFIED BY THE
19 DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION.

20 (II) “QUALIFIED INVESTOR” DOES NOT INCLUDE:

21 1. A QUALIFIED PENSION PLAN, AN INDIVIDUAL
22 RETIREMENT ACCOUNT, OR ANY OTHER QUALIFIED RETIREMENT PLAN UNDER THE
23 EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR
24 FIDUCIARIES OR CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX-FAVORED
25 PLANS OR ENTITIES UNDER THE LAWS OF OTHER COUNTRIES; OR

26 2. A CORPORATION SUBJECT TO THE CORPORATE
27 INCOME TAX.

1 **(9) "RESERVE FUND" MEANS THE MARYLAND ANGEL INVESTOR TAX**
2 **CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.**

3 **(10) "SECRETARY" MEANS THE SECRETARY OF COMMERCE.**

4 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND THE**
5 **LIMITATIONS UNDER THIS SECTION, FOR THE TAXABLE YEAR IN WHICH AN**
6 **INVESTMENT IN A QUALIFIED INNOVATION BUSINESS IS MADE, A QUALIFIED**
7 **INVESTOR MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT**
8 **EQUAL TO THE AMOUNT OF THE TAX CREDIT STATED IN THE FINAL CREDIT**
9 **CERTIFICATE APPROVED BY THE SECRETARY.**

10 **(2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH**
11 **(1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR MAY NOT, AFTER MAKING THE**
12 **PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 20% OF THE EQUITY**
13 **INTERESTS IN THE QUALIFIED INNOVATION BUSINESS IN WHICH THE INVESTMENT**
14 **IS TO BE MADE.**

15 **(C) (1) TO BE ELIGIBLE FOR THE TAX CREDIT UNDER SUBSECTION (B) OF**
16 **THIS SECTION, THE INVESTMENT MUST BE IN A QUALIFIED INNOVATION BUSINESS**
17 **THAT IS CERTIFIED BY THE DEPARTMENT UNDER THIS SUBSECTION.**

18 **(2) BEFORE RECEIVING AN INVESTMENT FROM A QUALIFIED**
19 **INVESTOR, A QUALIFIED INNOVATION BUSINESS SHALL SUBMIT AN APPLICATION TO**
20 **THE DEPARTMENT.**

21 **(3) THE APPLICATION REQUIRED UNDER THIS SUBSECTION SHALL**
22 **PROVIDE EVIDENCE THAT THE QUALIFIED INNOVATION BUSINESS:**

23 **(I) IS IN GOOD STANDING AND AUTHORIZED TO CONDUCT**
24 **BUSINESS IN THE STATE BY INCLUDING A LETTER OF GOOD STANDING FROM THE**
25 **STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;**

26 **(II) HAS DEVELOPED OR IS IN THE PROCESS OF DEVELOPING A**
27 **TECHNOLOGY, PRODUCT, OR SERVICE THAT IS UNIQUE AND LEGALLY OWNED OR**
28 **LICENSED BY THE QUALIFIED INNOVATION BUSINESS;**

29 **(III) DOES NOT HAVE ANNUAL REVENUE GREATER THAN**
30 **\$5,000,000;**

31 **(IV) HAS BEEN IN ACTIVE BUSINESS NOT LONGER THAN 5 YEARS;**

32 **(V) HAS NOT RECEIVED MORE THAN \$3,000,000 IN**

1 INVESTMENTS;

2 (VI) HAS FEWER THAN 35 FULL-TIME EQUIVALENT EMPLOYEES;

3 (VII) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN THIS
4 STATE; AND

5 (VIII) DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON ANY
6 EXCHANGE.

7 (4) (I) DURING THE YEAR IN WHICH AN INVESTMENT IS MADE, A
8 QUALIFIED INNOVATION BUSINESS SHALL HAVE AT LEAST:

9 1. 51% OF THE QUALIFIED INNOVATION BUSINESS'S
10 FULL-TIME EQUIVALENT EMPLOYEES EMPLOYED IN THE STATE; AND

11 2. 51% OF THE QUALIFIED INNOVATION BUSINESS'S
12 PAYROLL PAID TO EMPLOYEES IN THE STATE.

13 (II) THE NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES IS
14 CALCULATED BY DIVIDING THE TOTAL HOURS PAID IN A YEAR BY THE PRODUCT OF
15 40 TIMES THE NUMBER OF WEEKS OF PAYROLL INCURRED IN A YEAR.

16 (D) (1) AT LEAST 30 DAYS BEFORE MAKING AN INVESTMENT IN A
17 QUALIFIED INNOVATION BUSINESS FOR WHICH A QUALIFIED INVESTOR WOULD BE
18 ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, THE
19 QUALIFIED INVESTOR SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

20 (2) THE APPLICATION SHALL PROVIDE EVIDENCE THAT:

21 (I) THE QUALIFIED INVESTOR HAS INDIVIDUAL INCOME TAX
22 LIABILITY IN THE STATE; AND

23 (II) 1. THE QUALIFIED INVESTOR INTENDS TO MAKE AN
24 INVESTMENT OF AT LEAST \$10,000; OR

25 2. IF THE QUALIFIED INVESTOR IS A PASS-THROUGH
26 ENTITY OR A MARRIED COUPLE FILING A JOINT RETURN, THE QUALIFIED INVESTOR
27 INTENDS TO MAKE AN INVESTMENT OF AT LEAST \$20,000.

28 (3) WITH REGARD TO A QUALIFIED INNOVATION BUSINESS IN WHICH
29 A QUALIFIED INVESTOR INTENDS TO MAKE AN INVESTMENT, THE QUALIFIED
30 INVESTOR MAY NOT:

1 (I) BE A PERSON ELECTED OR APPOINTED BY THE GOVERNING
2 BODY OF THE QUALIFIED INNOVATION BUSINESS TO MANAGE THE BUSINESS;

3 (II) BE A PERSON HAVING AUTHORITY TO ACT ON BEHALF OF
4 THE QUALIFIED INNOVATION BUSINESS;

5 (III) HAVE MORE THAN 20% OF THE VOTING SECURITIES OF THE
6 QUALIFIED INNOVATION BUSINESS, HELD INDIVIDUALLY OR IN COMBINATION WITH
7 FAMILY MEMBERS; OR

8 (IV) BE A FAMILY MEMBER OF A QUALIFIED INVESTOR THAT IS
9 PROHIBITED FROM BEING A QUALIFIED INVESTOR UNDER ITEM (I), (II), OR (III) OF
10 THIS PARAGRAPH.

11 (4) THE DEPARTMENT SHALL:

12 (I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR CREDITS
13 UNDER THIS SECTION ON A FIRST-COME, FIRST-SERVED BASIS; AND

14 (II) WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION, CERTIFY,
15 AS PROVIDED IN THIS SECTION, THE AMOUNT OF ANY APPROVED TAX CREDITS TO A
16 QUALIFIED INVESTOR.

17 (5) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE
18 SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH
19 APPROVED INVESTMENT IN A QUALIFIED INNOVATION BUSINESS ELIGIBLE FOR A
20 TAX CREDIT.

21 (II) AN INITIAL TAX CREDIT CERTIFICATE SHALL STATE THE
22 MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE QUALIFIED INVESTOR IS
23 ELIGIBLE.

24 (III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS
25 SUBPARAGRAPH AND SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH,
26 FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL TAX CREDIT
27 CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN
28 THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN
29 THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

30 2. A. WITH RESPECT TO APPLICATIONS RECEIVED BY
31 THE DEPARTMENT BEGINNING JULY 1 OF THE FISCAL YEAR BUT BEFORE JANUARY
32 1 OF THAT FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL TAX CREDIT

1 CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN
2 50% OF THE FUNDS IN THE RESERVE FUND.

3 B. WITH RESPECT TO APPLICATIONS RECEIVED BY THE
4 DEPARTMENT BEGINNING JANUARY 1 OF THE FISCAL YEAR BUT BEFORE JULY 1 OF
5 THE FOLLOWING FISCAL YEAR, THE SECRETARY MAY ISSUE INITIAL TAX CREDIT
6 CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE NOT EXCEEDING THE
7 REMAINING FUNDS IN THE RESERVE FUND.

8 3. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL
9 TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE
10 AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY
11 EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER
12 INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

13 4. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED
14 FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW
15 OTHER THAN UNDER SUBSECTION (F)(5) OF THIS SECTION, THE MAXIMUM CREDIT
16 AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX
17 CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

18 (6) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN
19 INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED INVESTOR
20 SHALL HAVE 60 CALENDAR DAYS TO MAKE AN INVESTMENT IN A QUALIFIED
21 INNOVATION BUSINESS UNDER THIS SECTION.

22 (II) THE DEPARTMENT MAY GRANT AN EXTENSION OF NOT
23 MORE THAN 30 CALENDAR DAYS OF THE TIME PERIOD UNDER SUBPARAGRAPH (I)
24 OF THIS PARAGRAPH.

25 (III) WITHIN 10 CALENDAR DAYS AFTER THE DATE ON WHICH A
26 QUALIFIED INVESTOR MAKES THE INVESTMENT, THE QUALIFIED INVESTOR SHALL
27 PROVIDE TO THE DEPARTMENT NOTICE AND PROOF OF THE MAKING OF THE
28 INVESTMENT, INCLUDING:

29 1. THE DATE OF THE INVESTMENT;

30 2. THE AMOUNT INVESTED;

31 3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS BY
32 THE QUALIFIED INNOVATION BUSINESS;

33 4. A COMPLETE DESCRIPTION OF THE NATURE OF THE

1 OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS
2 ACQUIRED IN CONSIDERATION OF THE INVESTMENT; AND

3 5. ANY SUPPORTING DOCUMENTATION THE
4 DEPARTMENT MAY REQUIRE.

5 (IV) IF A QUALIFIED INVESTOR DOES NOT PROVIDE THE NOTICE
6 AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN SUBPARAGRAPH
7 (III) OF THIS PARAGRAPH WITHIN 100 CALENDAR DAYS AFTER THE DATE ON WHICH
8 THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS
9 SECTION:

10 1. THE DEPARTMENT SHALL RESCIND THE INITIAL TAX
11 CREDIT CERTIFICATE; AND

12 2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED
13 CERTIFICATE SHALL REVERT TO THE RESERVE FUND AND SHALL BE AVAILABLE IN
14 THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER
15 INITIAL TAX CREDIT CERTIFICATES.

16 (7) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT MADE BY A
17 QUALIFIED INVESTOR, THE SECRETARY SHALL ISSUE A FINAL TAX CREDIT
18 CERTIFICATE TO THE QUALIFIED INVESTOR.

19 (E) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT
20 CERTIFICATE ISSUED UNDER THIS SECTION:

21 (I) 1. IS 50% OF THE INVESTMENT IN A QUALIFIED
22 INNOVATION BUSINESS LOCATED IN ANNE ARUNDEL COUNTY, BALTIMORE
23 COUNTY, BALTIMORE CITY, HOWARD COUNTY, MONTGOMERY COUNTY, OR
24 PRINCE GEORGE'S COUNTY; OR

25 2. IS 66% OF THE INVESTMENT IN A QUALIFIED
26 INNOVATION BUSINESS LOCATED IN ANY OTHER COUNTY; AND

27 (II) MAY NOT EXCEED:

28 1. \$50,000; OR

29 2. \$100,000 FOR A QUALIFIED INVESTOR THAT IS A
30 MARRIED COUPLE THAT FILES A JOINT RETURN OR A PASS-THROUGH ENTITY.

31 (2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT CERTIFY

1 ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE QUALIFIED
2 INNOVATION BUSINESS THAT IN THE AGGREGATE EXCEED 15% OF THE TOTAL
3 APPROPRIATIONS TO THE RESERVE FUND FOR THAT FISCAL YEAR.

4 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
5 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE QUALIFIED
6 INVESTOR MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX
7 FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

8 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

9 (II) THE EXPIRATION OF THE 4TH TAXABLE YEAR AFTER THE
10 TAXABLE YEAR IN WHICH THE QUALIFIED INVESTOR FIRST CLAIMED THE TAX
11 CREDIT ALLOWED UNDER THIS SECTION.

12 (F) (1) THERE IS A MARYLAND ANGEL INVESTOR TAX CREDIT RESERVE
13 FUND THAT IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF
14 THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 (2) THE DEPARTMENT SHALL ADMINISTER THE RESERVE FUND.

16 (3) (I) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED
17 AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE
18 CREDITED TO THE GENERAL FUND.

19 (II) THE RESERVE FUND CONSISTS OF MONEY APPROPRIATED
20 IN THE STATE BUDGET FOR THE RESERVE FUND.

21 (III) FOR EACH FISCAL YEAR, IT IS THE INTENT OF THE GENERAL
22 ASSEMBLY THAT THE GOVERNOR INCLUDE IN THE BUDGET BILL AN
23 APPROPRIATION OF AT LEAST \$5,000,000 FOR THE RESERVE FUND.

24 (4) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE
25 FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN
26 APPROPRIATION FOR THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY
27 THE GENERAL ASSEMBLY.

28 (5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY
29 APPROPRIATED FOR THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

30 (II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR
31 QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH FINAL
32 CREDIT CERTIFICATE ISSUED DURING THE QUARTER:

1 **A. THE MAXIMUM CREDIT AMOUNT STATED IN THE**
2 **INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT; AND**

3 **B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE**
4 **INVESTMENT.**

5 **2. ON NOTIFICATION THAT AN INVESTMENT HAS BEEN**
6 **CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE**
7 **CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE**
8 **INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.**

9 **(G) (1) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE**
10 **RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF WITHIN 1**
11 **YEAR FROM THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED:**

12 **(I) THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR**
13 **OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED**
14 **INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT;**

15 **(II) THE QUALIFIED INVESTOR IS EMPLOYED BY THE QUALIFIED**
16 **INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT; OR**

17 **(III) THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO**
18 **THE CREDIT NO LONGER MAINTAINS ITS HEADQUARTERS AND BASE OF OPERATIONS**
19 **IN THE STATE.**

20 **(2) THE AMOUNT REQUIRED TO BE RECAPTURED UNDER THIS**
21 **SUBSECTION IS THE PRODUCT OF MULTIPLYING:**

22 **(I) THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN THE**
23 **CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE**
24 **PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST DISPOSED**
25 **OF; AND**

26 **(II) 1. 100%, IF THE EVENT REQUIRING RECAPTURE OF THE**
27 **CREDIT OCCURS DURING THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS**
28 **CLAIMED; OR**

29 **2. 50%, IF THE EVENT REQUIRING RECAPTURE OF THE**
30 **CREDIT OCCURS DURING THE FIRST YEAR AFTER THE CLOSE OF THE TAXABLE YEAR**
31 **FOR WHICH THE TAX CREDIT IS CLAIMED.**

1 **(3) THE QUALIFIED INVESTOR THAT CLAIMED THE CREDIT SHALL**
2 **PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER PARAGRAPH (2) OF**
3 **THIS SUBSECTION AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN**
4 **WHICH THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS.**

5 **(H) (1) THE DEPARTMENT MAY REVOKE ITS INITIAL OR FINAL**
6 **CERTIFICATION OF AN APPROVED CREDIT UNDER THIS SECTION IF ANY**
7 **REPRESENTATION IN CONNECTION WITH THE APPLICATION FOR THE**
8 **CERTIFICATION IS DETERMINED BY THE DEPARTMENT TO HAVE BEEN FALSE WHEN**
9 **MADE.**

10 **(2) THE REVOCATION UNDER PARAGRAPH (1) OF THIS SUBSECTION**
11 **MAY BE IN FULL OR IN PART AS THE DEPARTMENT MAY DETERMINE AND, SUBJECT**
12 **TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE COMMUNICATED TO THE**
13 **QUALIFIED INVESTOR AND THE COMPTROLLER.**

14 **(3) BEFORE NOTIFICATION TO THE COMPTROLLER, THE QUALIFIED**
15 **INVESTOR SHALL HAVE AN OPPORTUNITY TO APPEAL ANY REVOCATION TO THE**
16 **DEPARTMENT.**

17 **(4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE**
18 **QUALIFIED INVESTOR TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE**
19 **QUALIFIED INVESTOR HAS ALREADY CLAIMED.**

20 **(I) ON OR BEFORE FEBRUARY 1 EACH YEAR FOLLOWING THE YEAR IN**
21 **WHICH A QUALIFIED INNOVATION BUSINESS RECEIVES AN INVESTMENT, THE**
22 **QUALIFIED INNOVATION BUSINESS SHALL SUBMIT TO THE DEPARTMENT A REPORT**
23 **THAT DETAILS THE TOTAL:**

24 **(1) NUMBER AND AMOUNT OF INVESTMENTS RECEIVED DURING THE**
25 **PRIOR YEAR;**

26 **(2) NUMBER OF DIRECT JOBS CREATED OR SUPPORTED BY**
27 **INVESTMENTS MADE DURING THE PRIOR YEAR; AND**

28 **(3) AMOUNT OF ADDITIONAL INVESTMENTS LEVERAGED BY**
29 **INVESTMENTS MADE DURING THE PRIOR YEAR.**

30 **(J) (1) IN ACCORDANCE WITH § 2.5-109 OF THE ECONOMIC**
31 **DEVELOPMENT ARTICLE, THE DEPARTMENT SHALL REPORT ON THE TAX CREDIT**
32 **CERTIFICATES ISSUED UNDER THIS SECTION.**

33 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**

1 SUBSECTION SHALL INCLUDE FOR EACH INITIAL TAX CREDIT CERTIFICATE ISSUED:

2 (I) THE NAME OF THE QUALIFIED INVESTOR AND THE AMOUNT
3 OF CREDIT ISSUED OR ALLOCATED TO EACH INVESTOR;

4 (II) THE NAME AND ADDRESS OF THE QUALIFIED INNOVATION
5 BUSINESS THAT RECEIVED THE INVESTMENT GIVING RISE TO THE CREDIT UNDER
6 THIS SECTION AND THE COUNTY WHERE THE QUALIFIED INNOVATION BUSINESS IS
7 LOCATED; AND

8 (III) THE DATES OF RECEIPT AND APPROVAL BY THE
9 DEPARTMENT OF ALL APPLICATIONS FOR INITIAL TAX CREDIT CERTIFICATES.

10 (3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
11 SUBSECTION SHALL SUMMARIZE FOR THE CATEGORY OF QUALIFIED INVESTORS:

12 (I) THE TOTAL NUMBER OF APPLICANTS FOR INITIAL TAX
13 CREDIT CERTIFICATES UNDER THIS SECTION IN EACH CALENDAR YEAR;

14 (II) THE NUMBER OF APPLICATIONS FOR WHICH INITIAL TAX
15 CREDIT CERTIFICATES WERE ISSUED IN EACH CALENDAR YEAR; AND

16 (III) THE TOTAL INITIAL TAX CREDIT CERTIFICATES
17 AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS.

18 (K) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER,
19 SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND
20 TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF,
21 AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS
22 SECTION.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017, but
25 before January 1, 2021. It shall remain effective for a period of 7 years and, at the end of
26 June 30, 2025, this Act, with no further action required by the General Assembly, shall be
27 abrogated and of no further force and effect.