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THE MARYLAND HOUSE OF DELEGATES
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Testimony in Support of HB 223
End Ineffective Business Subsidies Act of 2020

This bill would add sunset dates for several unnecessary and expensive business tax credits that currently do not have an end date in state law. Eliminating these ineffective business incentives would free up $65.8 million in fiscal years 2023-2025 that could be redirected for education as we try to meet the challenge of fully funding the Kirwan recommendations.

Three of the programs, the Biotechnology Investment Incentive Tax Credit, the Enterprise Zone Tax Credit, and One Maryland Economic Development Tax Credit have come under recent scrutiny for their expense and for not meeting their intended goals. A fourth tax credit, the opportunity zone enhancements, was just enacted last year but should be reviewed in a timely manner.

Biotechnology Investment Incentive Tax Credit
Cost: $12.4 million in FY 2018

This tax credit was enacted in 2005 to provide a tax credit to investors in biotechnology companies. In 2018, DLS evaluated the tax credit.[1] DLS reported that "there is no evidence that the credit has increased investment in the biotechnology industry." DLS went on to recommend that "the General Assembly should consider eliminating the program in its current form or allowing the tax credit to sunset in two years and replacing it with a more effective program..."

DLS made 20 recommendations as to how the General Assembly could improve the tax credit, including awarding credits on a competitive basis, targeting some of the funds for early-stage companies, prohibiting company insiders from receiving the tax credit, lowering the tax credit amount, and having a lifetime cap on awards.

To date, no legislation has been introduced to fix the problems identified by DLS with the Biotechnology Investment Incentive Tax Credit.

Furthermore, the 2019 audit of the Department of Commerce found problems with implementation of this program, including that key information to determine eligibility was not verified prior to awarding the tax credit to investors.

[1] "Evaluation of the Biotechnology Investment Incentive Tax Credit," 2018, Department of Legislative Services.

Enterprise Zone Tax Credit
Cost: $52 million in FY 2020

This program provides both property and income tax credits to businesses in economically distressed areas with the goal of spurring economic growth and job creation. The tax credit was enacted in 1982.

DLS conducted a review of the tax credits in 2014,[2] which concluded that "Enterprise Zone tax credits are not effective in creating employment opportunities for Enterprise Zone residents." DLS also found that "in a significant number of Enterprise Zones, few businesses are claiming the credit." The report additionally found that the program's effectiveness is not being evaluated, as is required by law, due to a lack of data.

In response to the 2014 DLS report, the Department of Commerce proposed significant legislative reforms to the program, including reducing the time that a business could receive the property tax credit from ten years to five years. That 2017 legislation didn't receive a vote.

Because most states have enacted enterprise zone tax credits, there has been a broader study of the outcomes of the program. The National Conference of State Legislators reports that "academic reviews of enterprise zones, often prepared using econometric models, have found little evidence that programs actually result in net job creation and increased community investment."[3]

Economist David Neumark, a professor at the University of California, Irvine, conducted a broad review of the research on enterprise zones and concluded that: "it is very hard to make the case that the research establishes the effectiveness of enterprise zones in terms of job creation, poverty reduction, or [economic] welfare gains."[4]

Good Jobs First, a national think tank with expertise on tax policy, writes that enterprise zone "...subsidies cost state and local treasuries a lot of lost revenue, and like many subsidy programs, it is often unclear whether the developments would have happened in the area anyway."[5]

The ineffectiveness of enterprise zones has prompted further review in other states and led the California and Kentucky legislatures to end their state's enterprise zone tax credits.

One Maryland Economic Development Tax Credit
Cost: $22.9 million in FY 2018

This tax credit was enacted in 1999 to assist with infrastructure and start-up costs for certain types of businesses in distressed counties.[6]

[2] "Evaluation of the Enterprise Zone Tax Credit," 2014, Department of Legislative Services.
[3] "Enterprise Zones: Development for Distressed Communities," 2005, National Conference of State Legislators.
[4] "Rebuilding Communities Jobs Subsidies," 2018, David Neumark, The Hamilton Project.
[5] https://www.goodjobsfirst.org/accountable-development/enterprise-zones
[6] "Evaluation of the One Maryland Economic Development Tax Credit," 2014, Department of Legislative Services.

DLS evaluated the tax credit in 2014 found that the future fiscal impact of the program is "likely significant" because of large amounts of tax credits that were approved, but not yet claimed. Moreover, the report concluded that "there is significant variation in the effectiveness of the One Maryland Tax Credit." The report made several recommendations for how the program could be improved, including capping the annual amount of credits certified in order to limit the state's financial exposure and changing the law so that the amount of tax credit is commensurate with the change in the net number of jobs. Some, but not all, of these recommendations were included in legislation enacted in 2018.

The 2019 audit of the Department of Commerce found problems with this program. Auditors found that Commerce had not established effective procedures to ensure that applicants accurately reported their compliance with required new job creation numbers and a tax credit was issued to one applicant based on ineligible project costs.

Opportunity Zone Enhancements
Cost (projected): $35.8 million in FY 2023

In 2019, the General Assembly passed legislation to provide significant enhancements to six existing tax credits for businesses located in opportunity zones. The goal of the legislation is incentivize businesses to move into or expand in a low-income community that was designated by Governor Hogan as an opportunity zone.

Because the program is so new, no evaluations have been conducted. However, it is worth noting that the revised fiscal note for the enrolled legislation says that: "The bill may increase More Jobs for Marylanders appropriations by a total of $200.0 million through FY 2031."

Sunsetting Tax Credits is Good Policy

Adding a sunset date still provides the proponents of these programs an opportunity to make the case to continue the tax subsidies, after evaluation by the Department of Legislative Services. Such evaluations are helpful in terms of identifying underperforming programs, recommending ways to streamline administration, and removing barriers to businesses to participating in the program. Under the Maryland Tax Credit Evaluation Act, all tax credit programs that have a termination date provided for in law are automatically evaluated in the year before the sunset.

The General Assembly has, at times, extended the sunset dates of tax credits, as it did in 2019 with the Job Creation Tax Credit and the Research and Development Tax Credit.

Several states, including Virginia, require that all tax credits have a sunset date. Also, the Pew Charitable Trusts, Center of Budget and Policy Priorities, Good Jobs First and the Institute on Taxation and Economic Policy, all recommend including sunset dates for all tax credits.