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**By: Delegates Bissett, Busch, Hixson, McKee, and Franchot**

Introduced and read first time: February 9, 1996

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Military Reuse Zones - Advanced Technology Job Creation Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax, financial institution  
4 franchise tax, public service company franchise tax, and insurance premiums tax for  
5 the establishment or expansion of certain business facilities in certain designated  
6 military reuse zones in the State under certain circumstances; providing for  
7 calculation of the credit based on the number of new jobs created as a result of the  
8 establishment or expansion of a facility; limiting the credit allowed in any taxable  
9 year to the total tax otherwise payable for that taxable year; providing for the  
10 carryforward of unused credit; providing for recapture of the credit under certain  
11 circumstances; requiring the Department of Business and Economic Development  
12 to adopt certain regulations; providing for the future codification of part of this Act;  
13 defining certain terms; and generally relating to a credit against the State income  
14 tax, financial institution franchise tax, public service company franchise tax, and  
15 insurance premiums tax for the establishment or expansion of certain business  
16 facilities in certain military reuse zones in the State.

17 BY adding to

18 Article 83A - Department of Business and Economic Development  
19 Section 5-1101 through 5-1105 to be under the new subtitle "Subtitle 11. Military  
20 Reuse Zones - Advanced Technology Job Creation Tax Credit"  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume)

23 BY adding to

24 Article - Tax - General  
25 Section 8-214, 8-411, and 10-704.4  
26 Annotated Code of Maryland

2

1 (1988 Volume and 1995 Supplement)

2 BY adding to

3 Article 48A - Insurance Code

4 Section 632(e)

5 Annotated Code of Maryland

6 (1994 Replacement Volume and 1995 Supplement)

7 BY adding to

8 Article - Insurance

9 Section 6-114

10 Annotated Code of Maryland

11 (1995 Volume)

12 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

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

15 **Article 83A - Department of Business and Economic Development**

16 SUBTITLE 11. MILITARY REUSE ZONES - ADVANCED TECHNOLOGY JOB CREATION  
17 TAX CREDIT.

18 5-1101.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (B) "ADVANCED TECHNOLOGY BUSINESS FACILITY" INCLUDES ANY FACILITY  
22 OF AN ENTERPRISE AT WHICH THE ENTERPRISE ENGAGES IN ANY OF THE  
23 FOLLOWING PRESENT OR EMERGING FIELDS:

24 (1) HEALTH CARE AND BIOMEDICAL RESEARCH;

25 (2) INFORMATION AND COMMUNICATION SYSTEMS;

26 (3) COMPUTING AND COMPUTER SERVICES;

27 (4) ELECTRONICS;

28 (5) MANUFACTURING;

29 (6) ROBOTICS AND MATERIALS RESEARCH;

30 (7) TRANSPORTATION AND AEROSPACE;

31 (8) AGRICULTURE AND BIOTECHNOLOGY; OR

32 (9) FINANCIAL SERVICES.

33 (C) "BUSINESS ENTITY" MEANS A PERSON CONDUCTING A TRADE OR  
34 BUSINESS IN THE STATE.

1 (D) "CREDIT YEAR" MEANS ANY OF THE FIRST 3 TAXABLE YEARS FOLLOWING  
2 THE TAXABLE YEAR IN WHICH AN ADVANCED TECHNOLOGY BUSINESS FACILITY  
3 COMMENCED OR EXPANDED OPERATIONS.

4 (E) "MILITARY REUSE ZONE" MEANS AN AREA THAT IS WITHIN OR IS  
5 PARTIALLY WITHIN AND PARTIALLY CONTIGUOUS TO A MILITARY FACILITY OR  
6 OTHER ACTIVITY UNDER THE JURISDICTION OF THE UNITED STATES DEPARTMENT  
7 OF DEFENSE THAT:

8 (1) HAS BEEN OR IS BEING CLOSED BY THE SECRETARY OF DEFENSE;

9 (2) HAS BEEN OR IS BEING TRANSFERRED TO THE STATE OR TO  
10 ANOTHER PUBLIC ENTITY OR PRIVATE PERSON; AND

11 (3) THE SECRETARY OF THE DEPARTMENT OF BUSINESS AND  
12 ECONOMIC DEVELOPMENT HAS DESIGNATED AS A MILITARY REUSE ZONE UNDER  
13 THIS SUBTITLE.

14 (F) (1) "NEW PERMANENT FULL-TIME POSITION" MEANS :

15 (I) A JOB OF AN INDEFINITE DURATION THAT:

16 1. IS CREATED BY THE COMPANY AS A RESULT OF THE  
17 ESTABLISHMENT OR EXPANSION OF AN ADVANCED TECHNOLOGY BUSINESS  
18 FACILITY IN A MILITARY REUSE ZONE IN THE STATE; AND

19 2. REQUIRES A MINIMUM OF 35 HOURS OF AN EMPLOYEE'S  
20 TIME PER WEEK FOR THE ENTIRE NORMAL YEAR OF THE COMPANY'S OPERATIONS,  
21 WHICH "NORMAL YEAR" CONSISTS OF AT LEAST 48 WEEKS; OR

22 (II) A POSITION OF INDEFINITE DURATION THAT REQUIRES A  
23 MINIMUM OF 35 HOURS OF AN EMPLOYEE'S TIME PER WEEK FOR THE PORTION OF  
24 THE TAXABLE YEAR IN WHICH THE EMPLOYEE WAS INITIALLY HIRED FOR, OR  
25 TRANSFERRED TO, THE ADVANCED TECHNOLOGY BUSINESS FACILITY IN A  
26 MILITARY REUSE ZONE IN THE STATE.

27 (2) "NEW PERMANENT FULL-TIME POSITION" DOES NOT INCLUDE:

28 (I) A SEASONAL OR TEMPORARY POSITION; OR

29 (II) A JOB CREATED WHEN A JOB FUNCTION IS SHIFTED FROM AN  
30 EXISTING LOCATION IN THIS STATE TO THE NEW OR EXPANDED ADVANCED  
31 TECHNOLOGY BUSINESS FACILITY.

32 (G) "QUALIFIED BUSINESS ENTITY" MEANS A BUSINESS ENTITY THAT THE  
33 DEPARTMENT HAS CERTIFIED AS HAVING ESTABLISHED OR EXPANDED AN  
34 ADVANCED TECHNOLOGY BUSINESS FACILITY IN A MILITARY REUSE ZONE IN THE  
35 STATE.

36 (H) "QUALIFIED FULL-TIME EMPLOYEE" MEANS AN EMPLOYEE FILLING A  
37 NEW PERMANENT FULL-TIME POSITION IN AN ADVANCED TECHNOLOGY BUSINESS  
38 FACILITY IN THE STATE.

4

1 5-1102.

2 (A) (1) THE SECRETARY MAY DESIGNATE AN AREA IN THE STATE AS A  
3 MILITARY REUSE ZONE IF THE AREA IS WITHIN OR IS PARTIALLY WITHIN AND  
4 PARTIALLY CONTIGUOUS TO A MILITARY FACILITY OR OTHER ACTIVITY UNDER  
5 THE JURISDICTION OF THE UNITED STATES DEPARTMENT OF DEFENSE THAT:

6 (I) RECENTLY HAS BEEN OR IS BEING CLOSED BY THE SECRETARY  
7 OF DEFENSE; AND

8 (II) HAS BEEN OR IS BEING TRANSFERRED TO THE STATE OR TO  
9 ANOTHER PUBLIC ENTITY OR PRIVATE PERSON.

10 (2) THE SECRETARY SHALL SET A TERMINATION DATE FOR THE  
11 DESIGNATION OF AN AREA AS A MILITARY REUSE ZONE THAT IS NOT MORE THAN 5  
12 YEARS AFTER THE DATE THE AREA IS DESIGNATED AS A MILITARY REUSE ZONE.

13 (B) (1) THE DEPARTMENT SHALL CERTIFY A BUSINESS ENTITY AS  
14 QUALIFYING FOR THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE IF THE  
15 BUSINESS ENTITY SATISFIES THE CRITERIA SET FORTH IN THIS SECTION.

16 (2) IF THE DEPARTMENT CERTIFIES A BUSINESS ENTITY AS A  
17 QUALIFYING BUSINESS ENTITY, THE DEPARTMENT SHALL CERTIFY THE DATE ON  
18 WHICH THE NEWLY ESTABLISHED OR EXPANDED ADVANCED TECHNOLOGY  
19 BUSINESS FACILITY OF THE BUSINESS ENTITY COMMENCED OR EXPANDED  
20 OPERATIONS IN A MILITARY REUSE ZONE IN THE STATE.

21 (C) TO QUALIFY FOR THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE, A  
22 BUSINESS ENTITY SHALL ESTABLISH OR EXPAND AN ADVANCED TECHNOLOGY  
23 BUSINESS FACILITY IN A MILITARY REUSE ZONE IN THE STATE.

24 5-1103.

25 (A) (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE  
26 AMOUNT DETERMINED UNDER THIS SECTION FOR THE ESTABLISHMENT OR  
27 EXPANSION OF AN ADVANCED TECHNOLOGY BUSINESS FACILITY IN A MILITARY  
28 REUSE ZONE IN THE STATE.

29 (2) THE SAME TAX CREDIT MAY NOT BE APPLIED MORE THAN ONCE  
30 AGAINST DIFFERENT TAXES BY THE SAME TAXPAYER.

31 (B) (1) FOR ANY QUALIFIED BUSINESS ENTITY, THE CREDIT ALLOWED FOR  
32 ANY CREDIT YEAR UNDER THIS SECTION EQUALS \$1,000 MULTIPLIED TIMES THE  
33 NUMBER OF QUALIFIED FULL-TIME EMPLOYEES EMPLOYED DURING THE CREDIT  
34 YEAR.

35 (2) THE PORTION OF THE CREDIT ALLOWED WITH RESPECT TO ANY  
36 QUALIFIED FULL-TIME EMPLOYEE WHO IS EMPLOYED IN A MILITARY REUSE ZONE  
37 IN THE STATE FOR LESS THAN 12 FULL MONTHS DURING THE CREDIT YEAR SHALL  
38 BE DETERMINED BY MULTIPLYING THE CREDIT AMOUNT BY A FRACTION:

39 (I) THE NUMERATOR OF WHICH IS THE NUMBER OF FULL MONTHS  
40 THAT THE QUALIFIED FULL-TIME EMPLOYEE WORKED FOR THE QUALIFIED

5  
1 COMPANY IN THE MILITARY REUSE ZONE IN THE STATE DURING THE CREDIT YEAR;  
2 AND

3 (II) THE DENOMINATOR OF WHICH IS 12.

4 (C) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE  
5 YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY  
6 FOR THAT TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A  
7 CREDIT FOR SUCCEEDING YEARS UNTIL THE EARLIER OF:

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

9 (II) THE EXPIRATION OF THE 10TH TAXABLE YEAR AFTER THE  
10 CREDIT YEAR.

11 (2) IF A TAXPAYER IS ALLOWED ANOTHER CREDIT AGAINST A TAX  
12 AGAINST WHICH THE CREDIT UNDER THIS SECTION IS ALLOWED OR HAS A CREDIT  
13 CARRYOVER FROM A PRECEDING TAXABLE YEAR, THE TAXPAYER SHALL USE ANY  
14 CREDIT THAT DOES NOT HAVE A CARRYOVER PROVISION, AND THEN ANY CREDIT  
15 THAT IS CARRIED FORWARD FROM A PRECEDING TAXABLE YEAR, BEFORE USING  
16 ANY CREDIT ALLOWED UNDER THIS SECTION.

17 (D) (1) IN THIS SUBSECTION, "RELATED PARTY" MEANS:

18 (I) A RELATED PERSON WITHIN THE MEANING OF § 267(B) OF THE  
19 INTERNAL REVENUE CODE; OR

20 (II) A TRADE OR BUSINESS UNDER COMMON CONTROL WITHIN  
21 THE MEANING OF § 52(B) OF THE INTERNAL REVENUE CODE.

22 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
23 SECTION FOR ANY EMPLOYEE:

24 (I) FOR WHICH A CREDIT UNDER THIS SECTION WAS PREVIOUSLY  
25 ALLOWED BY A RELATED PARTY;

26 (II) WHO WAS PREVIOUSLY EMPLOYED IN THE SAME JOB  
27 FUNCTION IN MARYLAND BY A RELATED PARTY;

28 (III) WHOSE JOB FUNCTION WAS PREVIOUSLY PERFORMED AT A  
29 DIFFERENT LOCATION IN MARYLAND BY AN EMPLOYEE OF THE BUSINESS ENTITY  
30 OR A RELATED PARTY; OR

31 (IV) WHOSE JOB FUNCTION PREVIOUSLY QUALIFIED FOR A CREDIT  
32 UNDER THIS SECTION AT A DIFFERENT ADVANCED TECHNOLOGY BUSINESS  
33 FACILITY OF THE BUSINESS ENTITY OR A RELATED PARTY.

34 (E) (1) FOR ANY OF THE 5 TAXABLE YEARS SUCCEEDING A CREDIT YEAR,  
35 IF THE NUMBER OF QUALIFIED FULL-TIME EMPLOYEES AT A MAJOR BUSINESS  
36 FACILITY FOR WHICH THE CREDIT UNDER THIS SECTION HAS BEEN ALLOWED  
37 DECREASES BELOW THE AVERAGE NUMBER OF QUALIFIED FULL-TIME EMPLOYEES  
38 EMPLOYED DURING THE CREDIT YEAR, THE CREDIT SHALL BE RECAPTURED BY  
39 INCREASING THE BUSINESS ENTITY'S TAX FOR THAT TAXABLE YEAR.

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1 (2) THE AMOUNT RECAPTURED UNDER PARAGRAPH (1) OF THIS  
2 SUBSECTION SHALL EQUAL THE DIFFERENCE BETWEEN:

3 (I) THE AMOUNT OF CREDIT PREVIOUSLY ALLOWED; AND

4 (II) THE AMOUNT OF THE CREDIT THAT WOULD HAVE BEEN  
5 ALLOWED FOR THE ORIGINAL CREDIT YEAR USING THE DECREASED NUMBER OF  
6 QUALIFIED FULL-TIME EMPLOYEES.

7 (3) ANY AMOUNTS RECAPTURED UNDER THIS SUBSECTION SHALL  
8 FIRST REDUCE CREDITS ALLOWED BUT NOT YET CARRIED FORWARD BEFORE THE  
9 TAXPAYER'S TAX LIABILITY MAY BE INCREASED.

10 5-1104.

11 THE DEPARTMENT IN COOPERATION WITH THE COMPTROLLER SHALL ADOPT  
12 REGULATIONS TO ADMINISTER THE TAX CREDIT ALLOWED UNDER THIS SUBTITLE.

13 5-1105.

14 (A) THE PROVISIONS OF THIS SUBTITLE SHALL APPLY ONLY IN INSTANCES  
15 WHERE AN ANNOUNCEMENT OF INTENT TO ESTABLISH OR EXPAND AN ADVANCED  
16 TECHNOLOGY BUSINESS FACILITY IS MADE ON OR AFTER JANUARY 1, 1996.

17 (B) AN ANNOUNCEMENT OF INTENT TO ESTABLISH OR EXPAND AN  
18 ADVANCED TECHNOLOGY BUSINESS FACILITY INCLUDES A PRESS CONFERENCE OR  
19 EXTENSIVE PRESS COVERAGE, PROVIDING INFORMATION WITH RESPECT TO THE  
20 IMPACT OF THE PROJECT ON THE ECONOMY OF THE AREA WHERE THE ADVANCED  
21 TECHNOLOGY BUSINESS FACILITY IS TO BE ESTABLISHED OR EXPANDED AND THE  
22 STATE AS A WHOLE.

23 **Article - Tax - General**

24 8-214.

25 A FINANCIAL INSTITUTION MAY CLAIM A CREDIT AGAINST THE FINANCIAL  
26 INSTITUTION FRANCHISE TAX FOR THE ESTABLISHMENT OR EXPANSION OF AN  
27 ADVANCED TECHNOLOGY BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER  
28 ARTICLE 83A, § 5-1103 OF THE CODE.

29 8-411.

30 A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
31 SERVICE COMPANY FRANCHISE TAX FOR THE ESTABLISHMENT OR EXPANSION OF  
32 AN ADVANCED TECHNOLOGY BUSINESS FACILITY IN THE STATE AS PROVIDED  
33 UNDER ARTICLE 83A, § 5-1103 OF THE CODE.

34 10-704.4.

35 AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE  
36 INCOME TAX FOR THE ESTABLISHMENT OR EXPANSION OF AN ADVANCED  
37 TECHNOLOGY BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A,  
38 § 5-1103 OF THE CODE.

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1           **Article 48A - Insurance Code**

2 632.

3           (E) AN INSURANCE COMPANY MAY CLAIM A CREDIT AGAINST THE PREMIUM  
4 TAX FOR THE ESTABLISHMENT OR EXPANSION OF AN ADVANCED TECHNOLOGY  
5 BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A, § 5-1103 OF  
6 THE CODE.

7           SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
8 read as follows:

9           **Article - Insurance**

10 6-114.

11           AN INSURANCE COMPANY MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX  
12 FOR THE ESTABLISHMENT OR EXPANSION OF AN ADVANCED TECHNOLOGY  
13 BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A, § 5-1103 OF  
14 THE CODE.

15           SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
16 take effect October 1, 1997.

17           SECTION 4. AND BE IT FURTHER ENACTED, That except as provided in  
18 Section 3 of this Act, this Act shall take effect July 1, 1996.