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Q7  
HB 1161/96 - W&M

1997 Regular Session  
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**By:** ~~Delegate Bissett~~ Delegates Bissett, Hixson, Busch, Franchot, and McKee

Introduced and read first time: January 8, 1997

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

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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; defining certain terms; providing for the application of  
13 this Act; and generally relating to a credit against the State income tax, financial  
14 institution franchise tax, public service company franchise tax, and insurance  
15 premiums tax for the establishment or expansion of certain business facilities in  
16 certain military reuse zones in the State.

17 BY adding to

18 Article 83A - Department of Business and Economic Development  
19 Section 5-1201 through 5-1205 to be under the new subtitle "Subtitle 12. Military  
20 Reuse Zones - Advanced Technology Job Creation Tax Credit"  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume and 1996 Supplement)

23 BY adding to

24 Article - Tax - General  
25 Section 8-216, 8-413, and 10-708  
26 Annotated Code of Maryland

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1 (1988 Volume and 1996 Supplement)

2 BY adding to

3 Article - Insurance

4 Section 6-115

5 Annotated Code of Maryland

6 (1995 Volume and 1996 Supplement)

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

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

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

11 SUBTITLE 12. MILITARY REUSE ZONES - ADVANCED TECHNOLOGY JOB CREATION  
12 TAX CREDIT.

13 5-1201.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
15 INDICATED.

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

19 (1) HEALTH CARE AND BIOMEDICAL RESEARCH;

20 (2) INFORMATION AND COMMUNICATION SYSTEMS;

21 (3) COMPUTING AND COMPUTER SERVICES;

22 (4) ELECTRONICS;

23 (5) MANUFACTURING;

24 (6) ROBOTICS AND MATERIALS RESEARCH;

25 (7) TRANSPORTATION AND AEROSPACE;

26 (8) AGRICULTURE AND BIOTECHNOLOGY; OR

27 (9) FINANCIAL SERVICES.

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

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

33 (E) "MILITARY REUSE ZONE" MEANS AN AREA THAT IS WITHIN OR IS  
34 PARTIALLY WITHIN AND PARTIALLY CONTIGUOUS TO A MILITARY FACILITY OR

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1 OTHER ACTIVITY UNDER THE JURISDICTION OF THE UNITED STATES DEPARTMENT  
2 OF DEFENSE THAT:

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

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

6 (3) THE SECRETARY OF THE DEPARTMENT OF BUSINESS AND  
7 ECONOMIC DEVELOPMENT HAS DESIGNATED AS A MILITARY REUSE ZONE UNDER  
8 THIS SUBTITLE.

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

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

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

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

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

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

23 (I) A SEASONAL OR TEMPORARY POSITION; OR

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

27 (G) "QUALIFIED BUSINESS ENTITY" MEANS A BUSINESS ENTITY THAT THE  
28 DEPARTMENT HAS CERTIFIED AS HAVING ESTABLISHED OR EXPANDED AN  
29 ADVANCED TECHNOLOGY BUSINESS FACILITY IN A MILITARY REUSE ZONE IN THE  
30 STATE.

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

34 5-1202.

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

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

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

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

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

11 (2) IF THE DEPARTMENT CERTIFIES A BUSINESS ENTITY AS A  
12 QUALIFYING BUSINESS ENTITY, THE DEPARTMENT SHALL CERTIFY THE DATE ON  
13 WHICH THE NEWLY ESTABLISHED OR EXPANDED ADVANCED TECHNOLOGY  
14 BUSINESS FACILITY OF THE BUSINESS ENTITY COMMENCED OR EXPANDED  
15 OPERATIONS IN A MILITARY REUSE ZONE IN THE STATE.

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

19 5-1203.

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

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

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

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

34 (I) THE NUMERATOR OF WHICH IS THE NUMBER OF FULL MONTHS  
35 THAT THE QUALIFIED FULL-TIME EMPLOYEE WORKED FOR THE QUALIFIED  
36 COMPANY IN THE MILITARY REUSE ZONE IN THE STATE DURING THE CREDIT YEAR;  
37 AND

38 (II) THE DENOMINATOR OF WHICH IS 12.

39 (C) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE  
40 YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY

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1 FOR THAT TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A  
2 CREDIT FOR SUCCEEDING YEARS UNTIL THE EARLIER OF:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 5-1204.

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

10 5-1205.

11 (A) THE PROVISIONS OF THIS SUBTITLE SHALL APPLY ONLY IN INSTANCES  
12 WHERE AN ANNOUNCEMENT OF INTENT TO ESTABLISH OR EXPAND AN ADVANCED  
13 TECHNOLOGY BUSINESS FACILITY IS MADE ON OR AFTER JANUARY 1, 1997.

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

20 **Article - Tax - General**

21 8-216.

22 A FINANCIAL INSTITUTION MAY CLAIM A CREDIT AGAINST THE FINANCIAL  
23 INSTITUTION FRANCHISE TAX FOR THE ESTABLISHMENT OR EXPANSION OF AN  
24 ADVANCED TECHNOLOGY BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER  
25 ARTICLE 83A, § 5-1203 OF THE CODE.

26 8-413.

27 A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
28 SERVICE COMPANY FRANCHISE TAX FOR THE ESTABLISHMENT OR EXPANSION OF  
29 AN ADVANCED TECHNOLOGY BUSINESS FACILITY IN THE STATE AS PROVIDED  
30 UNDER ARTICLE 83A, § 5-1203 OF THE CODE.

31 10-708.

32 AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE  
33 INCOME TAX FOR THE ESTABLISHMENT OR EXPANSION OF AN ADVANCED  
34 TECHNOLOGY BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A,  
35 § 5-1203 OF THE CODE.

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1           **Article - Insurance**

2 6-115.

3           AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR THE  
4 ESTABLISHMENT OR EXPANSION OF AN ADVANCED TECHNOLOGY BUSINESS  
5 FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A, § 5-1203 OF THE CODE.

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 1997 and shall be applicable to all taxable years beginning after December 31,  
8 1997.