

HOUSE BILL 4

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Q3

1999 Regular Session
9lr0728
CF 9lr1872

(PRE-FILED)

By: Delegates Taylor, Busch, Arnick, Dewberry, Doory, Guns, Harrison, Hixson, Howard, Hurson, Kopp, Menes, Montague, Owings, Rawlings, Rosenberg, Vallario, and Wood Wood, W. Baker, Bozman, Bronrott, Brown, Cadden, Cryor, C. Davis, Edwards, Finifter, Franchot, Fulton, Giannetti, Healey, Hecht, A. Jones, V. Jones, Kagan, K. Kelly, Kirk, Krysiak, Love, Marriott, McIntosh, Mitchell, Nathan-Pulliam, Phillips, Rosso, Rudolph, Shriver, and Slade Slade, McKee, Conroy, Bartlett, Patterson, Eckardt, Conway, Schisler, Cane, Walkup, and McClenahan

Requested: November 20, 1998
Introduced and read first time: January 13, 1999
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: February 17, 1999

CHAPTER _____

1 AN ACT concerning

2 **One Maryland Economic Development Program for Distressed Counties -**
3 **Income Tax Credits**

4 FOR the purpose of allowing certain credits against the State income tax for certain
5 costs of certain economic development projects undertaken by certain business
6 entities in certain qualified economically distressed counties and certain
7 start-up costs of certain business entities locating in certain qualified
8 economically distressed counties; defining certain terms; requiring the
9 Secretary of Business and Economic Development to adopt certain regulations;
10 providing for the application of this Act; and generally relating to certain tax
11 credits to encourage capital investment and job creation in certain qualified
12 economically distressed counties.

13 BY adding to
14 Article - Tax - General
15 Section 10-712
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 1998 Supplement)

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

1 **Article - Tax - General**

2 10-712.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.5 (2) "CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE SERVICES"
6 MEANS THE PERFORMANCE OF CENTRAL MANAGEMENT OR ADMINISTRATIVE
7 FUNCTIONS FOR A BUSINESS ENTITY ENGAGED IN FINANCIAL, REAL ESTATE, OR
8 INSURANCE SERVICES, SUCH AS GENERAL MANAGEMENT, ACCOUNTING, COMPUTER
9 TABULATING, DATA PROCESSING, PURCHASING, TRANSPORTATION OR SHIPPING,
10 ADVERTISING, LEGAL, FINANCIAL, AND RESEARCH AND DEVELOPMENT.11 (3) (I) "COMPANY HEADQUARTERS" MEANS A FACILITY WHERE THE
12 MAJORITY OF A BUSINESS ENTITY'S FINANCIAL, PERSONNEL, LEGAL, AND PLANNING
13 FUNCTIONS ARE HANDLED EITHER ON A REGIONAL OR NATIONAL BASIS.14 (II) "COMPANY HEADQUARTERS" DOES NOT INCLUDE THE
15 HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION.16 (4) "ELIGIBLE ECONOMIC DEVELOPMENT PROJECT" MEANS AN
17 ECONOMIC DEVELOPMENT PROJECT ESTABLISHING OR EXPANDING A BUSINESS
18 FACILITY WITHIN A QUALIFIED DISTRESSED COUNTY THAT IS APPROVED BY THE
19 SECRETARY TO RECEIVE THE TAX CREDITS UNDER THIS SECTION.20 (5) "FULL-TIME POSITION" MEANS A POSITION REQUIRING AT LEAST 840
21 HOURS OF AN EMPLOYEE'S TIME DURING AT LEAST 24 WEEKS IN A 6-MONTH PERIOD.22 (6) (I) "PROJECT COSTS" MEANS THE COSTS AND EXPENSES
23 INCURRED BY A BUSINESS ENTITY IN CONNECTION WITH THE ACQUISITION,
24 CONSTRUCTION, REHABILITATION, INSTALLATION, AND EQUIPPING OF AN ELIGIBLE
25 ECONOMIC DEVELOPMENT PROJECT.

26 (II) "PROJECT COSTS" INCLUDES:

27 1. THE COSTS OF ACQUIRING, CONSTRUCTING,
28 REHABILITATING, INSTALLING, AND EQUIPPING THE PROJECT, INCLUDING
29 OBLIGATIONS INCURRED FOR LABOR AND TO CONTRACTORS, SUBCONTRACTORS,
30 BUILDERS, AND MATERIALMEN;31 2. THE COSTS OF ACQUIRING LAND OR RIGHTS IN LAND AND
32 COSTS INCIDENTAL TO ACQUIRING LAND OR RIGHTS IN LAND;33 3. THE COSTS OF CONTRACT BONDS AND INSURANCE THAT
34 ARE REQUIRED OR NECESSARY DURING THE ACQUISITION, CONSTRUCTION, OR
35 INSTALLATION OF THE PROJECT;36 4. THE COSTS OF ARCHITECTURAL AND ENGINEERING
37 SERVICES, INCLUDING TEST BORINGS, SURVEYS, ESTIMATES, PLANS AND

1 8. CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE
2 SERVICES;

3 9. THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES
4 OR A COMPANY HEADQUARTERS;

5 10. A PUBLIC UTILITY;

6 11. WAREHOUSING; OR

7 12. BUSINESS SERVICES; AND

8 (IV) IS CERTIFIED BY THE SECRETARY UNDER SUBSECTION (E) OF
9 THIS SECTION AS QUALIFYING FOR THE TAX CREDITS UNDER THIS SECTION.

10 (8) "QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY, INCLUDING
11 BALTIMORE CITY, FOR WHICH:

12 (I) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST
13 RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS GREATER THAN
14 150% OF THE AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE DURING
15 THAT SAME PERIOD; OR

16 (II) THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE MOST
17 RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS EQUAL TO OR LESS
18 THAN 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE ENTIRE STATE
19 DURING THAT SAME PERIOD.

20 (9) "QUALIFIED EMPLOYEE" MEANS AN EMPLOYEE FILLING A
21 QUALIFIED POSITION.

22 (10) (I) "QUALIFIED POSITION" MEANS A POSITION THAT:

23 1. IS A FULL-TIME POSITION AND IS OF INDEFINITE
24 DURATION;

25 2. PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

26 3. IS LOCATED IN A QUALIFIED DISTRESSED COUNTY IN
27 MARYLAND;

28 4. IS NEWLY CREATED, AS A RESULT OF THE
29 ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN A SINGLE LOCATION IN
30 THE QUALIFIED DISTRESSED COUNTY; AND

31 5. IS FILLED.

32 (II) "QUALIFIED POSITION" DOES NOT INCLUDE A POSITION THAT
33 IS:

1 1. CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED
2 FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY LOCATED IN
3 MARYLAND TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF
4 THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE STATE;

5 2. CREATED THROUGH A CHANGE IN OWNERSHIP OF A
6 TRADE OR BUSINESS;

7 3. CREATED THROUGH A CONSOLIDATION, MERGER, OR
8 RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION DOES NOT REPRESENT A
9 NET NEW JOB IN THE STATE;

10 4. CREATED WHEN AN EMPLOYMENT FUNCTION IS
11 CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY LOCATED IN THE
12 STATE TO ANOTHER BUSINESS ENTITY IF THE POSITION DOES NOT REPRESENT A
13 NET NEW JOB IN THE STATE; OR

14 5. FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

15 (11) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND ECONOMIC
16 DEVELOPMENT.

17 (12) "START-UP COSTS" MEANS:

18 (I) A COMPANY'S COST TO FURNISH AND EQUIP A NEW LOCATION
19 FOR ORDINARY BUSINESS FUNCTIONS, INCLUDING COMPUTERS, NONRECURRING
20 COSTS OF FIXED TELECOMMUNICATIONS EQUIPMENT, FURNISHINGS, AND OFFICE
21 EQUIPMENT; AND

22 (II) A COMPANY'S EXPENDITURES FOR MOVING COSTS,
23 SEPARATION COSTS, AND ANY OTHER EXPENDITURE INCURRED BY A COMPANY
24 DIRECTLY RELATED TO A MOVE FROM AN EXISTING LOCATION OUTSIDE OF
25 MARYLAND TO A LOCATION IN A QUALIFIED DISTRESSED COUNTY IN MARYLAND.

26 (B) (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A CREDIT UNDER THIS
27 SUBSECTION AGAINST THE STATE INCOME TAX FOR THE COSTS OF AN ELIGIBLE
28 ECONOMIC DEVELOPMENT PROJECT IN A QUALIFIED DISTRESSED COUNTY IF THE
29 QUALIFIED BUSINESS ENTITY'S TOTAL PROJECT COSTS FOR THE ELIGIBLE
30 ECONOMIC DEVELOPMENT PROJECT IS AT LEAST \$500,000.

31 (2) THE CREDIT ALLOWED UNDER THIS SUBSECTION EQUALS THE
32 LESSER OF:

33 (I) 100% OF THE PROJECT COSTS FOR THE ELIGIBLE ECONOMIC
34 DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT ALLOWED WITH
35 RESPECT TO THE PROJECT FOR PRIOR TAXABLE YEARS; OR

36 (II) THE STATE INCOME TAX FOR THE TAXABLE YEAR ON THE
37 BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE PROJECT, AS
38 DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

1 (3) (I) THE STATE INCOME TAX FOR THE TAXABLE YEAR ON THE
2 BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF AN ELIGIBLE
3 ECONOMIC DEVELOPMENT PROJECT SHALL EQUAL THE DIFFERENCE BETWEEN:

4 1. THE STATE INCOME TAX WITHOUT REGARD TO THIS
5 SECTION; AND

6 2. THE STATE INCOME TAX ON THE BUSINESS ENTITY'S
7 MARYLAND TAXABLE INCOME REDUCED BY THE AMOUNT OF ITS NET INCOME
8 ATTRIBUTABLE TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

9 (II) 1. IF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS A
10 TOTALLY SEPARATE FACILITY, NET INCOME ATTRIBUTABLE TO THE PROJECT SHALL
11 BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING ONLY
12 THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE
13 DIRECTLY ATTRIBUTABLE TO THE FACILITY AND OVERHEAD EXPENSES
14 APPORTIONED TO THE FACILITY.

15 2. IF THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS
16 AN EXPANSION TO A PREVIOUSLY EXISTING FACILITY:

17 A. NET INCOME ATTRIBUTABLE TO THE ENTIRE FACILITY
18 SHALL BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING
19 ONLY THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE
20 DIRECTLY ATTRIBUTABLE TO THE FACILITY AND OVERHEAD EXPENSES
21 APPORTIONED TO THE FACILITY; AND

22 B. THE NET INCOME ATTRIBUTABLE TO THE ELIGIBLE
23 ECONOMIC DEVELOPMENT PROJECT SHALL BE DETERMINED BY APPORTIONING THE
24 SEPARATE ACCOUNTING NET INCOME OF THE ENTIRE FACILITY TO THE ELIGIBLE
25 ECONOMIC DEVELOPMENT PROJECT BY A FORMULA APPROVED BY THE
26 COMPTROLLER.

27 3. IF A BUSINESS ENTITY CAN SHOW TO THE SATISFACTION
28 OF THE COMPTROLLER THAT THE NATURE OF THE OPERATIONS AND ACTIVITIES OF
29 THE BUSINESS ENTITY ARE SUCH THAT IT IS NOT PRACTICAL TO USE THE SEPARATE
30 ACCOUNTING METHOD TO DETERMINE THE NET INCOME FROM THE FACILITY AT
31 WHICH THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS LOCATED, THE
32 BUSINESS ENTITY SHALL DETERMINE NET INCOME FROM THE ELIGIBLE ECONOMIC
33 DEVELOPMENT PROJECT USING AN ALTERNATIVE METHOD APPROVED BY THE
34 COMPTROLLER.

35 (4) (I) IF THE PROJECT COSTS FOR THE ELIGIBLE ECONOMIC
36 DEVELOPMENT PROJECT LESS THE AMOUNT OF THE CREDIT ALLOWED WITH
37 RESPECT TO THE PROJECT FOR PRIOR TAXABLE YEARS EXCEEDS THE STATE INCOME
38 TAX ON THE BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE
39 PROJECT FOR THAT TAXABLE YEAR, A QUALIFIED BUSINESS ENTITY ELIGIBLE FOR
40 THE CREDIT UNDER THIS SUBSECTION MAY CLAIM ANY EXCESS AS A CREDIT FOR
41 THE PAYMENT OF WITHHOLDING TAXES THAT THE QUALIFIED BUSINESS ENTITY IS

1 REQUIRED TO PAY TO THE COMPTROLLER UNDER § 10-906(A) OF THIS TITLE, IN THE
2 MANNER PROVIDED UNDER SUBSECTION (C) OF THIS SECTION.

3 (II) ANY CREDIT UNUSED UNDER EITHER THIS SUBSECTION OR
4 SUBSECTION (C) OF THIS SECTION MAY BE APPLIED AS A CREDIT FOR UP TO 14
5 TAXABLE YEARS AFTER THE FIRST TAXABLE YEAR IN WHICH THE CREDIT IS
6 CLAIMED WITH RESPECT TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT OR
7 UNTIL FULLY USED.

8 (C) (1) A QUALIFIED BUSINESS ENTITY THAT LOCATES IN A QUALIFIED
9 DISTRESSED COUNTY MAY CLAIM A CREDIT IN THE AMOUNT PROVIDED IN
10 PARAGRAPH (2) OF THIS SUBSECTION AS A CREDIT FOR THE PAYMENT TO THE
11 COMPTROLLER OF TAXES THAT THE QUALIFIED BUSINESS ENTITY:

12 (I) IS REQUIRED TO WITHHOLD FROM THE WAGES OF EMPLOYEES
13 UNDER § 10-908 OF THIS TITLE; AND

14 (II) IS REQUIRED TO PAY TO THE COMPTROLLER UNDER § 10-906(A)
15 OF THIS TITLE.

16 (2) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR EACH
17 TAXABLE YEAR EQUALS THE LESSER OF:

18 (I) 100% OF THE BUSINESS ENTITY'S START-UP COSTS ASSOCIATED
19 WITH ESTABLISHING OR EXPANDING A BUSINESS FACILITY IN A QUALIFIED
20 DISTRESSED COUNTY, LESS THE AMOUNT OF THE CREDIT ALLOWED WITH RESPECT
21 TO THE PROJECT FOR PRIOR TAXABLE YEARS; OR

22 (II) THE PRODUCT OF MULTIPLYING \$10,000 TIMES THE NUMBER
23 OF QUALIFIED EMPLOYEES EMPLOYED AT THE NEW OR EXPANDED BUSINESS
24 FACILITY.

25 (3) THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY BE ALLOWED
26 FOR A MAXIMUM OF 10 YEARS.

27 (D) THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY CRITERIA AND
28 PROCEDURES FOR APPLICATION AND APPROVAL OF PROJECTS FOR THE TAX CREDIT
29 UNDER THIS SECTION.

30 (E) (1) TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY, A BUSINESS
31 ENTITY SHALL SUBMIT THE FOLLOWING TO THE SECRETARY IN ACCORDANCE WITH
32 REGULATIONS ADOPTED BY THE SECRETARY:

33 (I) THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;

34 (II) THE NUMBER OF FULL-TIME EMPLOYEES PRIOR TO THE
35 START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;

36 (III) THE NUMBER OF QUALIFIED POSITIONS CREATED, QUALIFIED
37 EMPLOYEES HIRED, AND THE PAYROLL OF THOSE EMPLOYEES; AND

1 (IV) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES
2 BY REGULATION.

3 (2) THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED
4 UNDER THIS SUBSECTION TO BE VERIFIED BY AN INDEPENDENT AUDITOR
5 SELECTED BY THE BUSINESS ENTITY.

6 (F) A QUALIFIED BUSINESS ENTITY MUST OBTAIN AND SUBMIT TO THE
7 COMPTROLLER WITH THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED,
8 CERTIFICATION FROM THE SECRETARY THAT THE ENTITY HAS MET THE
9 REQUIREMENTS OF THIS SECTION AND IS ELIGIBLE FOR THE CREDIT.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 1999, and shall be applicable to all taxable years beginning after December 31,
12 1999.