

HOUSE BILL 14

Unofficial Copy  
Q3

2000 Regular Session  
(01r0824)

**ENROLLED BILL**

-- Ways and Means/Budget and Taxation --

Introduced by **Delegates Taylor, Dewberry, Hurson, Arnick, Busch, Guns, Harrison, Hixson, Howard, Kopp, Montague, Rawlings, Owings, Rosenberg, Vallario, and Wood Wood, W. Baker, Barve, Bohanan, Bozman, Brown, Cane, Clagett, Cole, Conroy, Conway, D'Amato, DeCarlo, Donoghue, Doory, Dvpski, Finifter, Franchot, Frush, Giannetti, Goldwater, Griffith, Hammen, Healey, Hecht, Heller, Hubers, James, V. Jones, Klausmeier, Krysiak, Love, Mandel, McHale, Mitchell, Moe, Petzold, Pitkin, Rosso, Rudolph, Snodgrass, Stern, Turner, Valderrama, Weir, Zirkin, Cryor, Bartlett, Carlson, and Shriver**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Research and Development Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax for certain research  
4 or development expenses incurred by an individual or corporation; *allowing a*  
5 *credit against the State income tax based on certain increases in expenses paid or*  
6 *incurred for certain research and development conducted in the State; providing*  
7 *for calculation of the credit based on the amount by which certain research and*  
8 *development expenses for a taxable year exceed a certain base amount; providing*  
9 for applications to the Department of Business and Economic Development for

1 approval of the credit and certification by the Department to taxpayers of  
 2 approved credit amounts; limiting the total amount of credits that the  
 3 Department may approve for any calendar year to a certain amount; requiring  
 4 the Department to approve a prorated credit for each applicant if the total  
 5 amount applied for exceeds the maximum that may be approved; providing that  
 6 certain unused credits may be carried forward to certain taxable years;  
 7 requiring a certain addition modification if a certain credit is claimed; requiring  
 8 the Comptroller to adopt certain regulations; requiring the Department of  
 9 Business and Economic Development and the Comptroller jointly to adopt  
 10 certain regulations; defining certain terms; requiring the submission of a certain  
 11 report by a certain date; providing for the application and termination of this  
 12 Act; and generally relating to a ~~credit~~ certain credits against the State income  
 13 tax based on certain expenses paid or incurred for certain research ~~or~~ and  
 14 development ~~expenses incurred by an individual or corporation~~ conducted in the  
 15 State.

16 BY adding to

17 Article - Tax - General

18 Section 10-205(i) and 10-718

19 Annotated Code of Maryland

20 (1997 Replacement Volume and 1999 Supplement)

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

23 **Article - Tax - General**

24 10-205.

25 (1) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE  
 26 AMOUNT OF A CREDIT CLAIMED UNDER § 10-718 OF THIS TITLE FOR MARYLAND  
 27 QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES.

28 10-718.

29 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 30 INDICATED.

31 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND  
 32 ECONOMIC DEVELOPMENT.

33 ~~(3) "MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES"~~  
 34 ~~MEANS EXPENSES THAT:~~

35 ~~(4) ARE INCURRED FOR RESEARCH OR DEVELOPMENT THAT:~~

36 ~~1. IS CONDUCTED IN THIS STATE; AND~~



1 REVENUE CODE INCURRED FOR MARYLAND QUALIFIED RESEARCH AND  
2 DEVELOPMENT.

3 (B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A  
4 CORPORATION MAY CLAIM ~~A CREDIT~~ CREDITS AGAINST THE STATE INCOME TAX IN  
5 AN AMOUNT EQUAL TO:

6 (1) 3% OF THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT  
7 EXPENSES, NOT EXCEEDING THE MARYLAND BASE AMOUNT FOR THE INDIVIDUAL  
8 OR CORPORATION, PAID OR INCURRED BY THE INDIVIDUAL OR CORPORATION  
9 DURING THE TAXABLE YEAR; AND

10 (2) 10% OF THE AMOUNT BY WHICH THE MARYLAND QUALIFIED  
11 RESEARCH AND DEVELOPMENT EXPENSES PAID OR INCURRED BY THE INDIVIDUAL  
12 OR CORPORATION DURING THE TAXABLE YEAR EXCEED THE MARYLAND BASE  
13 AMOUNT FOR THE INDIVIDUAL OR CORPORATION.

14 (C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF  
15 THE TAXABLE YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND  
16 DEVELOPMENT ~~EXPENSE WAS~~ EXPENSES WERE INCURRED, AN INDIVIDUAL OR  
17 CORPORATION SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE  
18 ~~CREDIT UNDER~~ CREDITS ALLOWED UNDER SUBSECTION (B)(1) AND (2) OF THIS  
19 SECTION.

20 (2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE  
21 DEPARTMENT UNDER SUBSECTION (B)(1) OF THIS SECTION MAY NOT EXCEED  
22 ~~\$10,000,000~~ \$3,000,000 FOR ANY CALENDAR YEAR.

23 (3) (II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL  
24 INDIVIDUALS AND CORPORATIONS ~~EXCEEDS \$10,000,000~~ UNDER SUBSECTION (B)(1)  
25 OF THIS SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF  
26 THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER  
27 SUBSECTION (B)(1) OF THIS SECTION FOR EACH APPLICANT ~~A CREDIT~~ IN AN AMOUNT  
28 EQUAL TO THE PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY THE  
29 APPLICANT TIMES A FRACTION:

30 (4) 1. THE NUMERATOR OF WHICH IS ~~\$10,000,000~~ THE MAXIMUM  
31 SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

32 (4) 2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL  
33 CREDITS APPLIED FOR BY ALL APPLICANTS UNDER SUBSECTION (B)(1) OF THIS  
34 SECTION IN THE CALENDAR YEAR.

35 (3) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE  
36 DEPARTMENT UNDER SUBSECTION (B)(2) OF THIS SECTION MAY NOT EXCEED  
37 \$3,000,000 FOR ANY CALENDAR YEAR.

38 (II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL  
39 INDIVIDUALS AND CORPORATIONS UNDER SUBSECTION (B)(2) OF THIS SECTION  
40 EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS

1 PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER SUBSECTION  
2 (B)(2) OF THIS SECTION FOR EACH APPLICANT IN AN AMOUNT EQUAL TO THE  
3 PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY THE APPLICANT TIMES A  
4 FRACTION:

5 1. THE NUMERATOR OF WHICH IS THE MAXIMUM SPECIFIED  
6 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

7 2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL  
8 CREDITS APPLIED FOR BY ALL APPLICANTS UNDER SUBSECTION (B)(2) OF THIS  
9 SECTION IN THE CALENDAR YEAR.

10 (4) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF  
11 THE TAXABLE YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND  
12 DEVELOPMENT ~~EXPENSE WAS~~ EXPENSES WERE INCURRED, THE DEPARTMENT  
13 SHALL CERTIFY TO THE INDIVIDUAL OR CORPORATION THE AMOUNT OF THE  
14 RESEARCH AND DEVELOPMENT TAX ~~CREDIT~~ CREDITS APPROVED BY THE  
15 DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER SUBSECTION (B)(1)  
16 AND (2) OF THIS SECTION.

17 (5) TO CLAIM THE APPROVED ~~CREDIT~~ CREDITS ALLOWED UNDER THIS  
18 SECTION, AN INDIVIDUAL OR CORPORATION SHALL:

19 (I) FILE AN AMENDED INCOME TAX RETURN FOR THE TAXABLE  
20 YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT  
21 EXPENSE WAS INCURRED; AND

22 (II) ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF  
23 THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME TAX RETURN.

24 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR  
25 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN INDIVIDUAL OR  
26 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME  
27 TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

28 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

29 (2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE TAXABLE  
30 YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT  
31 EXPENSE WAS INCURRED.

32 (E) (1) IN DETERMINING THE AMOUNT OF THE CREDIT UNDER THIS  
33 SECTION:

34 (I) ALL MEMBERS OF THE SAME CONTROLLED GROUP OF  
35 CORPORATIONS, AS DEFINED UNDER § 41(F) OF THE INTERNAL REVENUE CODE,  
36 SHALL BE TREATED AS A SINGLE TAXPAYER; AND

1                    (II)     THE CREDIT ALLOWABLE BY THIS SECTION TO EACH MEMBER  
2 SHALL BE ITS PROPORTIONATE SHARES OF THE QUALIFIED RESEARCH EXPENSES  
3 GIVING RISE TO THE CREDIT.

4                    (2)     THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING FOR:

5                    (I)     DETERMINATION OF THE AMOUNT OF THE CREDIT UNDER  
6 THIS SECTION IN THE CASE OF TRADES OR BUSINESSES, WHETHER OR NOT  
7 INCORPORATED, THAT ARE UNDER COMMON CONTROL;

8                    (II)    PASS-THROUGH AND ALLOCATION OF THE CREDIT IN THE  
9 CASE OF ESTATES AND TRUSTS, PARTNERSHIPS, UNINCORPORATED TRADES OR  
10 BUSINESSES, AND S CORPORATIONS;

11                   (III)   ADJUSTMENTS IN THE CASE OF ACQUISITIONS AND  
12 DISPOSITIONS DESCRIBED IN § 41(F)(3) OF THE INTERNAL REVENUE CODE; AND

13                   (IV)   DETERMINATION OF THE CREDIT IN THE CASE OF SHORT  
14 TAXABLE YEARS.

15                   (3)     THE REGULATIONS ADOPTED UNDER PARAGRAPH (2) OF THIS  
16 SUBSECTION SHALL BE BASED ON PRINCIPLES SIMILAR TO THE PRINCIPLES  
17 APPLICABLE UNDER § 41 OF THE INTERNAL REVENUE CODE AND REGULATIONS  
18 ADOPTED THEREUNDER.

19                   ~~(E)~~ (F)    (1)    THE DEPARTMENT OF BUSINESS AND ECONOMIC  
20 DEVELOPMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO  
21 PRESCRIBE STANDARDS FOR DETERMINING WHEN RESEARCH OR DEVELOPMENT IS  
22 CONSIDERED CONDUCTED IN THE STATE FOR PURPOSES OF DETERMINING THE  
23 CREDIT UNDER THIS SECTION.

24                   (2)    IN ADOPTING REGULATIONS UNDER THIS SUBSECTION, THE  
25 DEPARTMENT AND THE COMPTROLLER MAY CONSIDER:

26                   (I)    THE LOCATION WHERE SERVICES ARE PERFORMED;

27                   (II)   THE RESIDENCE OR BUSINESS LOCATION OF THE PERSON OR  
28 PERSONS PERFORMING SERVICES;

29                   (III)   THE LOCATION WHERE SUPPLIES USED IN RESEARCH AND  
30 DEVELOPMENT ARE CONSUMED; AND

31                   (IV)   ANY OTHER FACTORS THAT THE DEPARTMENT DETERMINES  
32 ARE RELEVANT FOR THE DETERMINATION.

33   SECTION 2. AND BE IT FURTHER ENACTED, That:

34   (a)   Except as otherwise provided in this section, this Act shall be applicable to  
35 all taxable years beginning after December 31, 1999 but before January 1, 2005.

1 (b) If a taxpayer's taxable year for income tax purposes is not the calendar  
2 year:

3 (1) for the taxable year that ends in calendar year 2000, the taxpayer  
4 may apply for a prorated credit for research and development expenses paid or  
5 incurred in the taxable year for that part of the taxable year that falls in calendar  
6 year 2000; and

7 (2) for the taxable year that begins in calendar year 2004, the taxpayer  
8 may apply for only a prorated credit for research and development expenses paid or  
9 incurred in the taxable year for that part of the taxable year that falls in calendar  
10 year 2004.

11 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of  
12 Economic and Employment Development and the Comptroller shall jointly assess the  
13 cost of the research and development tax credit program established under this Act  
14 and the program's success in increasing the level of investment in research and  
15 development activities and attracting and retaining businesses that engage in research  
16 and development in Maryland. Subject to § 2-1246 of the State Government Article, a  
17 consolidated report of the findings of the Department and the Comptroller and any  
18 other information of value to the General Assembly in determining the effectiveness of  
19 the research and development tax credit program shall be submitted to the General  
20 Assembly on or before December 15, 2005.

21 ~~SECTION 3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
22 effect July 1, 2000. It shall remain effective for a period of 6 years and, at the end of  
23 June 30, 2006, with no further action required by the General Assembly, this Act shall  
24 be abrogated and of no further force and effect.