

(PRE-FILED)

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By: **Delegates Taylor, Dewberry, Hurson, Arnick, Busch, Guns, Harrison,  
Hixson, Howard, Kopp, Montague, Owings, Rosenberg, Vallario, and  
Wood**

Requested: November 15, 1999  
Introduced and read first time: January 12, 2000  
Assigned to: Ways and Means

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A BILL ENTITLED

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; providing for  
5 applications to the Department of Business and Economic Development for  
6 approval of the credit and certification by the Department to taxpayers of  
7 approved credit amounts; limiting the total amount of credits that the  
8 Department may approve for any calendar year to a certain amount; requiring  
9 the Department to approve a prorated credit for each applicant if the total  
10 amount applied for exceeds the maximum that may be approved; providing that  
11 certain unused credits may be carried forward to certain taxable years;  
12 requiring the Department of Business and Economic Development to adopt  
13 certain regulations; defining certain terms; providing for the application and  
14 termination of this Act; and generally relating to a credit against the State  
15 income tax for certain research or development expenses incurred by an  
16 individual or corporation.

17 BY adding to  
18 Article - Tax - General  
19 Section 10-718  
20 Annotated Code of Maryland  
21 (1997 Replacement Volume and 1999 Supplement)

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

24 **Article - Tax - General**

25 10-718.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
27 INDICATED.

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

3 (3) "MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES"  
4 MEANS EXPENSES THAT:

5 (I) ARE INCURRED FOR RESEARCH OR DEVELOPMENT THAT:

6 1. IS CONDUCTED IN THIS STATE; AND

7 2. IS NOT FUNDED, WITHIN THE MEANING OF §41(H)(D)(4)(H)  
8 OF THE INTERNAL REVENUE CODE, BY ANY GRANT, CONTRACT, OR OTHERWISE BY A  
9 PERSON OR GOVERNMENTAL ENTITY OTHER THAN THE PERSON CLAIMING THE  
10 CREDIT UNDER THIS SECTION; AND

11 (II) QUALIFY AS:

12 1. RESEARCH OR EXPERIMENTAL EXPENDITURES  
13 DEDUCTIBLE UNDER §174 OF THE INTERNAL REVENUE CODE, DETERMINED  
14 WITHOUT REGARD TO § 280C(C) OF THE INTERNAL REVENUE CODE OR ANY  
15 ELECTIONS MADE BY A TAXPAYER TO AMORTIZE EXPENSES ON ITS FEDERAL INCOME  
16 TAX RETURN THAT WERE OTHERWISE DEDUCTIBLE; OR

17 2. BASIC RESEARCH PAYMENTS AS DEFINED UNDER § 41 OF  
18 THE INTERNAL REVENUE CODE.

19 (B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A  
20 CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN  
21 AMOUNT EQUAL TO 3% OF THE MARYLAND QUALIFIED RESEARCH AND  
22 DEVELOPMENT EXPENSES PAID OR INCURRED BY THE INDIVIDUAL OR  
23 CORPORATION DURING THE TAXABLE YEAR.

24 (C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF  
25 THE TAXABLE YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND  
26 DEVELOPMENT EXPENSE WAS INCURRED, AN INDIVIDUAL OR CORPORATION SHALL  
27 SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE CREDIT UNDER THIS  
28 SECTION.

29 (2) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT  
30 UNDER THIS SECTION MAY NOT EXCEED \$10,000,000 FOR ANY CALENDAR YEAR.

31 (3) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL  
32 INDIVIDUALS AND CORPORATIONS EXCEEDS \$10,000,000, THE DEPARTMENT SHALL  
33 APPROVE FOR EACH APPLICANT A CREDIT IN AN AMOUNT EQUAL TO THE PRODUCT  
34 OF MULTIPLYING THE CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:

35 (I) THE NUMERATOR OF WHICH IS \$10,000,000; AND

36 (II) THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL CREDITS  
37 APPLIED FOR BY ALL APPLICANTS IN THE CALENDAR YEAR.

1 (4) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF  
2 THE TAXABLE YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND  
3 DEVELOPMENT EXPENSE WAS INCURRED, THE DEPARTMENT SHALL CERTIFY TO  
4 THE INDIVIDUAL OR CORPORATION THE AMOUNT OF THE RESEARCH AND  
5 DEVELOPMENT TAX CREDIT APPROVED BY THE DEPARTMENT FOR THE INDIVIDUAL  
6 OR CORPORATION.

7 (5) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS SECTION,  
8 AN INDIVIDUAL OR CORPORATION SHALL:

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

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

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

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

19 (2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE TAXABLE  
20 YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT  
21 EXPENSE WAS INCURRED.

22 (E) (1) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT  
23 SHALL ADOPT REGULATIONS TO PRESCRIBE STANDARDS FOR DETERMINING WHEN  
24 RESEARCH OR DEVELOPMENT IS CONSIDERED CONDUCTED IN THE STATE FOR  
25 PURPOSES OF DETERMINING THE CREDIT UNDER THIS SECTION.

26 (2) IN ADOPTING REGULATIONS UNDER THIS SUBSECTION, THE  
27 DEPARTMENT MAY CONSIDER:

28 (I) THE LOCATION WHERE SERVICES ARE PERFORMED;

29 (II) THE RESIDENCE OR BUSINESS LOCATION OF THE PERSON OR  
30 PERSONS PERFORMING SERVICES;

31 (III) THE LOCATION WHERE SUPPLIES USED IN RESEARCH AND  
32 DEVELOPMENT ARE CONSUMED; AND

33 (IV) ANY OTHER FACTORS THAT THE DEPARTMENT DETERMINES  
34 ARE RELEVANT FOR THE DETERMINATION.

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

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

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

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

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

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2000. It shall remain effective for a period of 6 years and, at the end of June  
15 30, 2006, with no further action required by the General Assembly, this Act shall be  
16 abrogated and of no further force and effect.