C8 6lr2249

By: Senators Edwards, Eckardt, Hershey, Mathias, and Serafini

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

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Economic Development – Maryland Economic Development Program and One Maryland Tax Credit

FOR the purpose of establishing the Maryland Economic Development Program to encourage businesses to locate and expand in certain areas of the State and provide certain rural counties of the State with funding for the expansion of infrastructure necessary to encourage businesses to locate in those counties; providing that certain provisions of the Program apply in certain counties; establishing an application process for the Department of Economic Competitiveness and Commerce to certify businesses that meet certain criteria as eligible for certain tax incentives; providing that for a certain number of taxable years after a business is designated as a qualified business, the business is eligible for a certain property tax exemption, income tax subtraction modification, and sales and use tax exemption; prohibiting the Department from designating a business as a qualified business after a certain date; requiring the Department to adopt certain regulations; establishing the Rural Economic Development Program Infrastructure Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; requiring the Governor, for certain fiscal years, to include in the annual operating or capital budget an appropriation of a certain amount to the Fund; specifying the purpose for which the Fund may be used; requiring a county, under certain circumstances, to repay a grant from the Fund; providing for the investment of money in and expenditures from the Fund; exempting the Fund from a certain provision of law requiring interest on State money in special funds to accrue to the General Fund of the State; altering the definition of a qualified distressed county for purposes of the One Maryland Tax Credit program to provide that certain counties are not included as a qualified distressed county for purposes of the program; allowing a subtraction modification under the State income tax for certain income of certain qualified businesses; exempting from the sales and use tax the sale of certain capital equipment used by certain qualified businesses; exempting from property tax certain property owned by



1 2 3 4	certain qualified businesses; providing for the interpretation of a certain provision of this Act; stating the intent of the General Assembly; defining certain terms; and generally relating to establishing the Maryland Economic Development Program and economic development in the State.
5	BY repealing and reenacting, without amendments,
6	Article – Economic Development
7	Section 1–101(e)
8	Annotated Code of Maryland
9	(2008 Volume and 2015 Supplement)
10	BY adding to
11	Article – Economic Development
12	Section 5–1501 through 5–1503 to be under the new subtitle "Subtitle 15. Maryland
13	Economic Development Program"
14	Annotated Code of Maryland
15	(2008 Volume and 2015 Supplement)
16	BY repealing and reenacting, with amendments,
17	Article – Economic Development
18	Section 6–401
19	Annotated Code of Maryland
20	(2008 Volume and 2015 Supplement)
21	BY repealing and reenacting, without amendments,
22	Article - Tax - General
23	Section 10–207(a)
24	Annotated Code of Maryland
25	(2010 Replacement Volume and 2015 Supplement)
26	BY adding to
27	Article - Tax - General
28	Section 10–207(cc) and 11–232
29	Annotated Code of Maryland
30	(2010 Replacement Volume and 2015 Supplement)
31	BY repealing and reenacting, with amendments,
32	Article - Tax - General
33	Section 10–307(g)
34	Annotated Code of Maryland
35	(2010 Replacement Volume and 2015 Supplement)
36	BY adding to
37	Article - Tax - Property
38	Section 7–245
39	Annotated Code of Maryland
40	(2012 Replacement Volume and 2015 Supplement)

1 2 3 4 5	BY repealing and reenacting, without amendments, Article – State Finance and Procurement Section 6–226(a)(2)(i) Annotated Code of Maryland (2015 Replacement Volume)
6 7 8 9	BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 6–226(a)(2)(ii)84. and 85. Annotated Code of Maryland (2015 Replacement Volume)
11 12 13 14	BY adding to Article – State Finance and Procurement Section 6–226(a)(2)(ii)86. Annotated Code of Maryland (2015 Replacement Volume)
16 17	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
18	Article – Economic Development
9	1–101.
20	(e) (1) "Qualified distressed county" means a county with:
21 22	(i) an average rate of unemployment for the most recent 24-month period for which data are available that exceeds:
23 24	1. 150% of the average rate of unemployment for the State during that period; or
25 26	2. the average rate of unemployment for the State during that period by at least 2 percentage points; or
27 28 29	(ii) an average per capita personal income for the most recent 24—month period for which data are available that is equal to or less than 67% of the average per capita personal income for the State during that period.
30	(2) "Qualified distressed county" includes a county that:
31 32	(i) no longer meets either criterion stated in paragraph (1) of this subsection; but

- 1 has met at least one of the criteria at some time during the 2 preceding 24-month period. 3 SUBTITLE 15. MARYLAND ECONOMIC DEVELOPMENT PROGRAM. 5-1501. 4 THERE IS A MARYLAND ECONOMIC DEVELOPMENT PROGRAM. 5 (A) 6 THE PURPOSE OF THE MARYLAND ECONOMIC DEVELOPMENT (B) 7 PROGRAM IS TO: 8 **(1)** ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN THE STATE; 9 **AND** 10 **(2)** PROVIDE THE RURAL COUNTIES OF THE STATE WITH FUNDING 11 FOR THE EXPANSION OF INFRASTRUCTURE NECESSARY TO ENCOURAGE 12 BUSINESSES TO LOCATE IN THOSE COUNTIES. 13 **5–1502.** THE DEPARTMENT MAY CERTIFY A BUSINESS AS A QUALIFIED 14 **(1)** BUSINESS IF THE BUSINESS MEETS THE REQUIREMENTS UNDER THIS SECTION. 15 16 **(2)** TO BE ELIGIBLE FOR DESIGNATION AS A QUALIFIED BUSINESS, AN 17 **APPLICANT SHALL:** 18 APPLY TO THE DEPARTMENT; (I)19 (II)PROVIDE EVIDENCE OF AN INTENTION: TO EXPAND A BUSINESS IN AN INDUSTRIAL OR A 20 1. BUSINESS PARK IN THE STATE THAT WAS BUILT WITH STATE OR FEDERAL MONEY; 2122**AND** 23 2. TO HIRE AT LEAST 20 ADDITIONAL EMPLOYEES; AND 24(III) MEET ANY OTHER REQUIREMENT THE DEPARTMENT 25 ESTABLISHES BY REGULATION.
- 26 (3) A BUSINESS MAY NOT BE DESIGNATED AS A QUALIFIED BUSINESS 27 IF THE ACTIVITIES OF THE BUSINESS ARE PRIMARILY RETAIL.

1 2 3	(4) WITHIN 60 DAYS AFTER SUBMISSION OF AN APPLICATION UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL APPROVE OR REJECT THE APPLICATION.
4 5 6	(B) FOR EACH OF THE 10 TAXABLE YEARS AFTER A BUSINESS IS DESIGNATED A QUALIFIED BUSINESS UNDER SUBSECTION (A) OF THIS SECTION, A QUALIFIED BUSINESS IS ENTITLED TO THE FOLLOWING TAX INCENTIVES:
7 8	(1) THE PROPERTY TAX EXEMPTION UNDER § $7-245$ OF THE TAX – PROPERTY ARTICLE;
9 10	(2) THE INCOME TAX SUBTRACTION MODIFICATION UNDER §§ $10-207({\rm CC})$ or $10-307({\rm G})(5)$ of the Tax – General Article; and
11 12	(3) THE SALES AND USE TAX EXEMPTION UNDER § 11–232 OF THE TAX – GENERAL ARTICLE.
13 14	(C) THE DEPARTMENT MAY NOT DESIGNATE A BUSINESS AS A QUALIFIED BUSINESS UNDER THIS SECTION AFTER SEPTEMBER 30, 2026.
15 16	(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.
17	5–1503.
18 19	(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
20	(2) "ELIGIBLE COUNTY" MEANS:
21	(I) ALLEGANY COUNTY;
22	(II) CAROLINE COUNTY;
23	(III) DORCHESTER COUNTY;
24	(IV) GARRETT COUNTY;
25	(V) SOMERSET COUNTY;
26	(VI) WASHINGTON COUNTY;

(VII) WICOMICO COUNTY; AND

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1 (VIII) WORCESTER COUNTY.

- 2 (3) "FUND" MEANS THE RURAL ECONOMIC DEVELOPMENT 3 PROGRAM INFRASTRUCTURE FUND.
- 4 (B) THERE IS A RURAL ECONOMIC DEVELOPMENT PROGRAM 5 INFRASTRUCTURE FUND.
- 6 (C) THE PURPOSE OF THE FUND IS TO PROVIDE THE RURAL COUNTIES OF
 7 THE STATE WITH A SOURCE OF FUNDING FOR THE EXPANSION OF INFRASTRUCTURE
 8 NECESSARY TO ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN THOSE
 9 COUNTIES.
- 10 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.
- 11 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT 12 SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
- 13 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.
- 15 (F) (1) THE FUND CONSISTS OF:
- 16 (I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE 17 FUND;
- 18 (II) INVESTMENT EARNINGS OF THE FUND; AND
- 19 (III) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED 20 FOR THE BENEFIT OF THE FUND.
- 21 (2) FOR FISCAL YEARS 2018 THROUGH 2022, THE GOVERNOR SHALL 22 INCLUDE IN THE ANNUAL OPERATING OR CAPITAL BUDGET AN APPROPRIATION TO 23 THE FUND IN THE AMOUNT OF AT LEAST \$5,000,000.
- 24 (G) (1) THE FUND MAY BE USED ONLY FOR GRANTS TO ELIGIBLE 25 COUNTIES FOR THE PURCHASE OF LAND OR THE CONSTRUCTION OF PUBLIC 26 BUILDINGS, WATER AND SEWER PROJECTS, OR ROADS.
- 27 (2) IF A COUNTY SELLS AN ASSET THAT BENEFITS FROM A GRANT RECEIVED UNDER THIS SECTION, THE COUNTY SHALL REIMBURSE THE FUND IN THE AMOUNT OF THE GRANT RECEIVED.

(H) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND 1 **(1)** 2 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED. 3 **(2)** ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND. 4 EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE 5 **(I)** 6 WITH THE STATE BUDGET. MONEY EXPENDED FROM THE FUND FOR GRANTS TO COUNTIES IS 7 (J)8 SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT 9 OTHERWISE WOULD BE APPROPRIATED FOR INFRASTRUCTURE PROJECTS WITHIN A 10 COUNTY. 11 6-401.12 In this subtitle the following words have the meanings indicated. (a) 13 "Eligible economic development project" means an economic development 14 project that: 15 (1) establishes or expands a business facility within a qualified distressed 16 county; and 17 (2) is approved for a project tax credit or a start—up tax credit in accordance with this subtitle. 18 19 "Eligible project cost" means the cost and expense a qualified business (1)20 entity incurs to acquire, construct, rehabilitate, install, or equip an eligible economic development project. 2122 "Eligible project cost" includes: (2)23 (i) the cost of: 241. obligations for labor and payments made to contractors, subcontractors, builders, and suppliers; 2526 2. acquiring land, rights in land, and costs incidental to 27 acquiring land or rights in land; 28 3. contract bonds and insurance needed during the

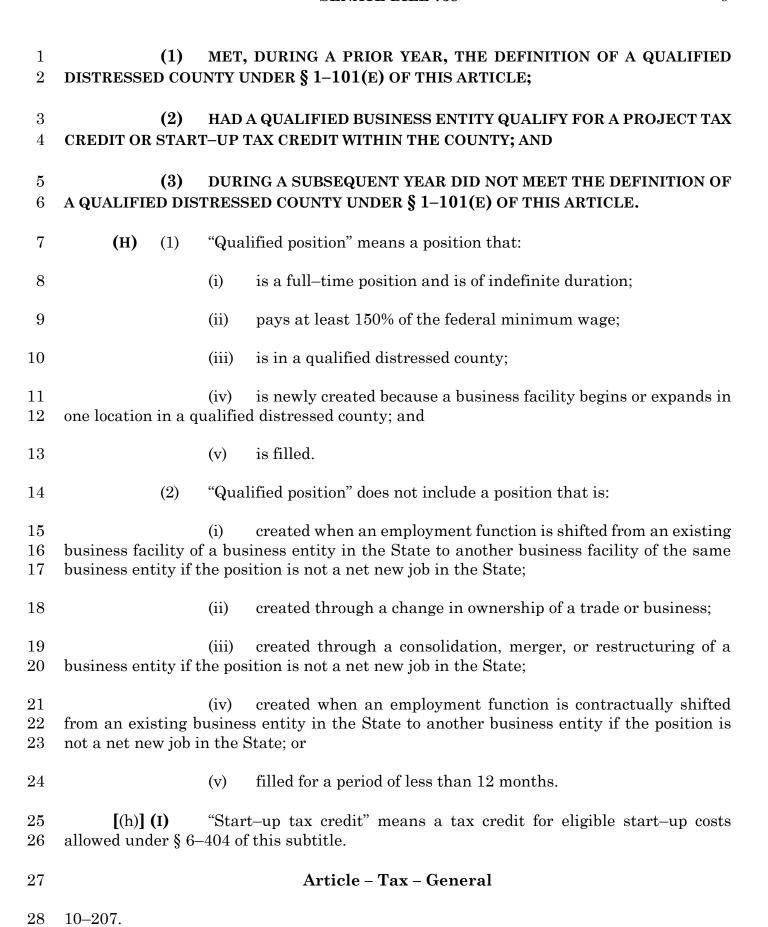
acquisition, construction, or installation of the project;

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- 1 4. test borings, surveys, estimates, plans, specifications, 2 preliminary investigations, environmental mitigation, supervision of construction, and 3 other architectural and engineering services: 4 performing duties required by or consequent to the acquisition, construction, and installation of the project; 5 6 6. installing water, sewer, sewer treatment, gas, electricity, 7 communications, railroads, and similar utilities; and 8 bond insurance, letters of credit, or other forms of credit enhancement or liquidity facilities; 9 10 the interest cost before and during the acquisition, construction, (ii) installation, and equipping of the project, and for up to 2 years after project completion; 11 12 and 13 legal, accounting, financial, printing, recording, filing, and other 14 fees and expenses incurred to finance the project. "Eligible start-up cost" means a qualified business entity's cost to 15 (d) furnish and equip a new location for ordinary business functions. 16 17 (2)"Eligible start—up cost" includes: computers, 18 of fixed the costnonrecurring costs of 19 telecommunications equipment, furnishings, and office equipment; and 20 expenditures for moving costs, separation costs, and other costs 21directly related to moving from outside of the State to a location in a qualified distressed 22county. 23"Project tax credit" means a tax credit for eligible project costs allowed under § 6–403 of this subtitle. 24"Qualified business entity" means a person that: 25(f) (i) 26(1) conducts or operates a trade or business in the State; or 27 operates in the State and is exempt from taxation under § (ii) 28501(c)(3) or (4) of the Internal Revenue Code; and 29 is certified in accordance with § 6–402 of this subtitle as qualifying for
- 31 (g) "QUALIFIED DISTRESSED COUNTY" DOES NOT INCLUDE A COUNTY 32 THAT:

a project tax credit or a start-up tax credit under this subtitle.



- 1 (a) To the extent included in federal adjusted gross income, the amounts under 2 this section are subtracted from the federal adjusted gross income of a resident to determine 3 Maryland adjusted gross income.
- 4 (CC) (1) IN THIS SUBSECTION, "QUALIFIED BUSINESS" MEANS A BUSINESS 5 THAT IS CERTIFIED BY THE DEPARTMENT OF ECONOMIC COMPETITIVENESS AND 6 COMMERCE UNDER § 5–1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.
- 7 (2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION 8 INCLUDES THE AMOUNT OF INCOME A QUALIFIED BUSINESS RECEIVES THAT IS 9 ATTRIBUTABLE TO ACTIVITIES FOR WHICH THE BUSINESS QUALIFIED AS PART OF 10 ITS APPLICATION UNDER § 5–1502(B) OF THE ECONOMIC DEVELOPMENT ARTICLE.
- 11 (3) THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION
 12 MAY BE CLAIMED ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR IN
 13 WHICH THE BUSINESS IS DESIGNATED AS A QUALIFIED BUSINESS UNDER § 5–1502
 14 OF THE ECONOMIC DEVELOPMENT ARTICLE.
- 15 10-307.
- 16 (g) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:
- 18 (1) § 10–207(i) of this title (Profits on sale or exchange of State or local bonds);
- 20 (2) § 10–207(k) of this title (Relocation and assistance payments);
- 21 (3) § 10–207(m) of this title (State or local income tax refunds); [or]
- 22 (4) § 10–207(c–1) of this title (State tax–exempt interest from mutual 23 funds); **OR**
- 24 (5) § 10–207(CC) OF THIS TITLE (INCOME FROM A QUALIFIED 25 BUSINESS).
- 26 **11–232.**
- (A) IN THIS SECTION, "QUALIFIED BUSINESS" MEANS A BUSINESS THAT IS CERTIFIED BY THE DEPARTMENT OF ECONOMIC COMPETITIVENESS AND COMMERCE UNDER § 5–1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.
- 30 **(B)** THE SALES AND USE TAX DOES NOT APPLY TO A SALE OF BUILDING 31 MATERIALS OR CAPITAL EQUIPMENT USED AS PART OF THE ACTIVITIES OF A

- 1 QUALIFIED BUSINESS FOR WHICH THE BUSINESS QUALIFIED AS PART OF ITS
- 2 APPLICATION UNDER § 5–1502(B) OF THE ECONOMIC DEVELOPMENT ARTICLE.
- 3 Article Tax Property
- 4 **7–245.**
- 5 (A) IN THIS SECTION, "QUALIFIED BUSINESS" MEANS A BUSINESS THAT IS 6 CERTIFIED BY THE DEPARTMENT OF ECONOMIC COMPETITIVENESS AND 7 COMMERCE UNDER § 5–1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.
- 8 (B) PROPERTY IS NOT SUBJECT TO PROPERTY TAX IF THE PROPERTY IS 9 OWNED BY A QUALIFIED BUSINESS.
- 10 (C) A QUALIFIED BUSINESS IS ENTITLED TO THE EXEMPTION UNDER THIS
 11 SECTION ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR THE BUSINESS IS
- 12 DESIGNATED AS A QUALIFIED BUSINESS UNDER § 5–1502 OF THE ECONOMIC
- 13 **DEVELOPMENT ARTICLE.**
- 14 Article State Finance and Procurement
- 15 6–226.
- 16 (a) (2) (i) Notwithstanding any other provision of law, and unless
- inconsistent with a federal law, grant agreement, or other federal requirement or with the
- terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to
- 20 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
- 21 Fund of the State.
- 22 (ii) The provisions of subparagraph (i) of this paragraph do not apply
- 23 to the following funds:
- 24 84. the Economic Development Marketing Fund; [and]
- 25 85. the Military Personnel and Veteran–Owned Small
- 26 Business No-Interest Loan Fund; AND
- 27 86. THE RURAL ECONOMIC DEVELOPMENT PROGRAM
- 28 INFRASTRUCTURE FUND.
- 29 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
- 30 Assembly that the cost savings from the change to the definition of a "qualified distressed
- 31 county" under § 6–401(g) of the Economic Development Article, as enacted by this Act, offset
- 32 the additional cost of the Rural Economic Development Program enacted by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the change in the definition of "qualified distressed county" under § 6–401(g) of the Economic Development Article, as enacted by this Act, may not be construed to prohibit Baltimore City or Allegany, Caroline, Dorchester, Somerset, Washington, or Worcester counties from participating in the One Maryland Tax Credit program until the jurisdiction fails to meet the definition of a qualified distressed county under § 1–101(e) of the Economic Development Article.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect 8 October 1, 2016.