

SENATE BILL 1134

Q3

7lr3709
CF HB 1176

By: **Senator Oaks**

Introduced and read first time: February 22, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Research and Development Credit – Start-Up Businesses**

3 FOR the purpose of altering the calculation of a certain credit against the State income tax
4 for certain research and development expenses incurred by certain individuals or
5 corporations under certain circumstances; defining a certain term; providing for the
6 application of this Act; and generally relating to a certain credit against the State
7 income tax based on certain expenses paid or incurred for certain research and
8 development conducted in the State.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 10–721(a) and (b)
12 Annotated Code of Maryland
13 (2016 Replacement Volume)

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

16 **Article – Tax – General**

17 10–721.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Department” means the Department of Commerce.

20 (3) “Maryland base amount” means the base amount as defined in § 41(c)
21 of the Internal Revenue Code that is attributable to Maryland, determined by:

22 (i) substituting “Maryland qualified research and development
23 expense” for “qualified research expense”;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) substituting “Maryland qualified research and development” for
2 “qualified research”; and

3 (iii) using, instead of the “fixed base percentage”:

4 1. the percentage that the Maryland qualified research and
5 development expense for the 4 taxable years immediately preceding the taxable year in
6 which the expense is incurred is of the gross receipts for those years; or

7 2. for a taxpayer who has fewer than 4 but at least 1 prior
8 taxable year, the percentage as determined under item 1 of this item, determined using the
9 number of immediately preceding taxable years that the taxpayer has.

10 (4) “Maryland gross receipts” means gross receipts that are reasonably
11 attributable to the conduct of a trade or business in this State, determined under methods
12 prescribed by the Comptroller based on standards similar to the standards under § 10–402
13 of this title.

14 (5) “Maryland qualified research and development” means qualified
15 research as defined in § 41(d) of the Internal Revenue Code that is conducted in this State.

16 (6) “Maryland qualified research and development expenses” means
17 qualified research expenses as defined in § 41(b) of the Internal Revenue Code incurred for
18 Maryland qualified research and development.

19 (7) “Small business” means a for–profit corporation, limited liability
20 company, partnership, or sole proprietorship with net book value assets totaling, at the
21 beginning or the end of the taxable year for which Maryland qualified research and
22 development expenses are incurred, as reported on the balance sheet, less than \$5,000,000.

23 **(8) “START–UP BUSINESS” MEANS A BUSINESS ENTITY ORGANIZED IN**
24 **THE STATE WHOSE FIRST CONTRACT OF SALE TO A PAYING CUSTOMER WAS SIGNED**
25 **LESS THAN 2 YEARS BEFORE THE DATE OF THE ENTITY’S APPLICATION FOR THE**
26 **CREDIT ALLOWED UNDER THIS SECTION.**

27 (b) Subject to the limitations of this section, an individual or a corporation may
28 claim credits against the State income tax in an amount equal to:

29 (1) **EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, 3% of the**
30 **Maryland qualified research and development expenses, not exceeding the Maryland base**
31 **amount for the individual or corporation, paid or incurred by the individual or corporation**
32 **during the taxable year; [and]**

33 (2) **5% OF THE MARYLAND QUALIFIED RESEARCH AND**
34 **DEVELOPMENT EXPENSES, NOT EXCEEDING THE MARYLAND BASE AMOUNT FOR**

1 THE INDIVIDUAL OR CORPORATION, PAID TO A START-UP BUSINESS OR PAID OR
2 INCURRED BY THE INDIVIDUAL OR CORPORATION DURING THE TAXABLE YEAR, IF
3 THE INDIVIDUAL OR CORPORATION IS A START-UP BUSINESS; AND

4 (3) 10% of the amount by which the Maryland qualified research and
5 development expenses paid or incurred by the individual or corporation during the taxable
6 year exceed the Maryland base amount for the individual or corporation.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2017, and shall be applicable to all Maryland research and development tax credits
9 certified after December 31, 2016.