

HOUSE BILL 565

Q3, C8, Q1

0lr0870

By: **Delegates Kaiser, Feldmark, Palakovich Carr, Washington, and Wilkins**

Introduced and read first time: January 27, 2020

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2020

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Business and Economic Development Tax Credits – Termination,**
3 **Alteration, and Evaluation**

4 FOR the purpose of repealing certain provisions of law authorizing and governing a credit
5 against the State income tax for certain expenses incurred for certain cellulosic
6 ethanol technology research and development activities; prohibiting the Secretary of
7 Commerce from designating or expanding certain enterprise zones and focus areas
8 ~~on or after a certain date~~ for a certain period of time; providing that the automatic
9 designation of certain areas as enterprise zones applies only to areas designated on
10 or before a certain date or on or after a certain date; prohibiting the Secretary from
11 designating or renewing certain Regional Institution Strategic Enterprise zones ~~on~~
12 ~~or after a certain date~~ for a certain period of time; providing for the termination of
13 the ~~One Maryland Economic Development Tax Credit~~ More Jobs for Marylanders
14 Program on or after a certain date; ~~providing for the application of certain~~
15 ~~enhancements offered under the Opportunity Zone Enhancement Program to certain~~
16 ~~taxable years and certain provisions relating to the enterprise zone program;~~
17 ~~prohibiting the Department of Commerce from issuing tax credit certificates to~~
18 ~~certain investors in certain biotechnology companies, to certain buyers of certain~~
19 ~~cybersecurity technology and services, and to certain small businesses that provide~~
20 ~~certain employer benefits to certain qualified employees on or after a certain date;~~
21 ~~prohibiting the Department of Commerce from issuing tax credit certificates for~~
22 ~~certain film production activities for fiscal years beginning after a certain date;~~
23 ~~repealing a provision authorizing certain business entities to claim, under certain~~
24 ~~circumstances, enterprise zone property tax credits within a certain number of years~~
25 ~~after the enterprise zone expires~~; altering the purposes of the Tax Credit Evaluation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Act to include the legislative review of tax exemptions and preferences; requiring the
 2 Department of Legislative Services to conduct an evaluation of a State tax credit,
 3 exemption, or preference, or an aspect of a State tax credit, exemption, or preference,
 4 under certain circumstances; repealing provisions of law establishing a certain
 5 evaluation committee; requiring certain instrumentalities of the State and local
 6 governments to promptly provide certain information to the Department of
 7 Legislative Services and otherwise cooperate with the Department of Legislative
 8 Services; requiring the Department of Legislative Services, with respect to each
 9 evaluation, to submit a certain report to the General Assembly; prohibiting an
 10 individual or corporation from receiving a credit against the income tax for certain
 11 qualified research and development expenses in excess of a certain amount in a
 12 taxable year; altering the amount of research and development tax credits that the
 13 Department of Commerce may approve in certain calendar years; requiring the
 14 Department of Commerce to make available a certain percent of the total amount of
 15 research and development tax credits that the Department of Commerce may
 16 approve in a calendar year to small businesses; providing for the use of certain
 17 unused credits; providing for the calculation of the credit under certain
 18 circumstances; altering the definition of “qualified Maryland biotechnology
 19 company” for purposes of the biotechnology investment tax credit to exclude a
 20 company that has received investments from certain qualified investors; providing
 21 for the termination of a credit against the State income tax for certain costs related
 22 to federal security clearances, to rent certain spaces, and to construct or renovate
 23 certain sensitive compartmented information facilities in the State; altering the
 24 termination date of the cybersecurity investment incentive tax credit; repealing
 25 certain obsolete provisions; making conforming changes; requiring the Department
 26 to conduct, in consultation with certain parties, a certain study and to report to the
 27 General Assembly on or before a certain date; defining a certain term; making a
 28 technical correction; providing for a delayed effective date and for the application of
 29 certain provisions of this Act; and generally relating to business and economic
 30 development tax credit programs in the State.

31 BY repealing

32 Article – Tax – General
 33 Section 1–304, 1–307 through 1–310, and 10–726
 34 Annotated Code of Maryland
 35 (2016 Replacement Volume and 2019 Supplement)

36 BY repealing and reenacting, with amendments,

37 Article – Economic Development
 38 Section 5–702, 5–708, 5–1404(f), and ~~6–1002~~ 6–804
 39 Annotated Code of Maryland
 40 (2018 Replacement Volume and 2019 Supplement)

41 ~~BY adding to~~

42 ~~Article – Economic Development~~
 43 ~~Section 6–407~~
 44 ~~Annotated Code of Maryland~~

1 ~~(2018 Replacement Volume and 2019 Supplement)~~

2 BY repealing and reenacting, with amendments,

3 Article – Tax – General

4 Section ~~10-725(e), 10-730(f), 10-733.1(d), and 10-748(d)~~ 1-301 through 1-303,
5 1-305, 1-306, 1-311, 10-721(a)(7), (b), and (c), 10-725(a)(7), 10-732(b), and
6 10-741(d)

7 Annotated Code of Maryland

8 (2016 Replacement Volume and 2019 Supplement)

9 BY adding to

10 Article – Tax – General

11 Section 1-306 and 10-721(a)(7)

12 Annotated Code of Maryland

13 (2016 Replacement Volume and 2019 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Tax – General

16 Section 10-721(a)(1) and 10-725(a)(1)

17 Annotated Code of Maryland

18 (2016 Replacement Volume and 2019 Supplement)

19 BY repealing and reenacting, with amendments,

20 Chapter 390 of the Acts of the General Assembly of 2013, as amended by Chapter
21 578 of the Acts of the General Assembly of 2018

22 Section 2

23 ~~BY repealing and reenacting, with amendments,~~

24 ~~Article – Tax – Property~~

25 ~~Section 9-103(e)~~

26 ~~Annotated Code of Maryland~~

27 ~~(2019 Replacement Volume)~~

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
29 That Section(s) 10-726 of Article – Tax – General of the Annotated Code of Maryland be
30 repealed.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
32 as follows:

33 Article – Economic Development

34 5-702.

35 (A) (1) THIS SUBTITLE APPLIES ONLY TO THE DESIGNATION OR
36 EXPANSION OF AN ENTERPRISE ZONE OR A FOCUS AREA ON OR BEFORE ~~MAY 31,~~
37 ~~2020~~ JUNE 30, 2020 OR ON OR AFTER JULY 1, 2021.

1 **(2) THE SECRETARY MAY NOT DESIGNATE OR EXPAND AN**
 2 **ENTERPRISE ZONE OR A FOCUS AREA UNDER THIS SUBTITLE ~~ON OR AFTER JUNE 1,~~**
 3 **~~2020~~ FROM JULY 1, 2020, THROUGH JUNE 30, 2021, BOTH INCLUSIVE.**

4 **(B)** Subject to § 9–103 of the Tax – Property Article, a business entity that owns,
 5 operates, develops, constructs, or rehabilitates property intended for use primarily as single
 6 or multifamily residential property located in an enterprise zone may not benefit from an
 7 incentive or initiative under this subtitle.

8 5–708.

9 (a) An area that is designated an [enterprize] **ENTERPRISE** zone, empowerment
 10 zone, or enterprise community under federal law **ON OR BEFORE ~~MAY 31, 2020~~ JUNE 30,**
 11 **~~2020~~ OR ON OR AFTER JULY 1, 2021,** shall automatically be designated as an enterprise
 12 zone notwithstanding the limit on the number of enterprise zones that the Secretary may
 13 designate under § 5–704(b) of this subtitle.

14 (b) An application by a political subdivision and the designation by the Secretary
 15 of an area as an enterprise zone constitutes the State approval that may be required to
 16 designate an area as an enterprise zone under federal law.

17 5–1404.

18 (f) (1) (i) Subject to subparagraph (ii) of this paragraph, the designation of
 19 an area as a RISE zone is effective for 5 years.

20 (ii) Upon a joint application of a qualified institution, a county and,
 21 if applicable, a municipal corporation, or the economic development agency of a county or
 22 municipal corporation, the Secretary may renew a RISE zone for an additional 5 years.

23 (2) The Secretary may not:

24 **(I)** approve more than three RISE zones in a single county or
 25 municipal corporation; **OR**

26 **(II) DESIGNATE OR RENEW A RISE ZONE UNDER THIS SUBTITLE**
 27 **~~ON OR AFTER JUNE 1, 2020~~ FROM JULY 1, 2020, THROUGH JUNE 30, 2021, BOTH**
 28 **INCLUSIVE.**

29 6–804.

30 (a) The Program benefits authorized under this section may be claimed by a
 31 qualified business entity for:

1 **(1) WITH RESPECT TO A QUALIFIED BUSINESS ENTITY ENROLLED IN**
2 **THE PROGRAM BEFORE JULY 1, 2020, up to 10 consecutive benefit years; OR**

3 **(2) WITH RESPECT TO A QUALIFIED BUSINESS ENTITY ENROLLED IN**
4 **THE PROGRAM ON OR AFTER JULY 1, 2020, UP TO 5 CONSECUTIVE BENEFIT YEARS.**

5 **(b) On enrollment in the Program:**

6 **(1) a new business entity in a Tier I area is eligible for:**

7 **(i) a credit against the State income tax, established under §**
8 **10-741(b) of the Tax – General Article;**

9 **(ii) a credit against the State property tax, established under §**
10 **9-110 of the Tax – Property Article;**

11 **(iii) WITH RESPECT TO A NEW BUSINESS ENTITY ENROLLED IN**
12 **THE PROGRAM BEFORE JULY 1, 2020, a refund of sales and use tax paid during the**
13 **immediately preceding taxable year, as provided under § 11-411 of the Tax – General**
14 **Article; and**

15 **(iv) a waiver of fees charged by the State Department of Assessments**
16 **and Taxation, established under § 1-203.1 of the Corporations and Associations Article;**
17 **and**

18 **(2) except as provided in subsection (c) of this section, an existing business**
19 **entity that operates an eligible project is eligible for a credit against the State income tax,**
20 **established under § 10-741(b) of the Tax – General Article.**

21 **(c) The income tax credit established under § 10-741(b) of the Tax – General**
22 **Article is not available to an existing business entity if the entity moves its facility to**
23 **another county in the State on or after June 1, 2017.**

24 **(d) If the number of qualified positions at the eligible project decreases to a**
25 **number less than the number established in the first benefit year, the project shall be**
26 **removed from the Program and all program benefits terminate.**

27 ~~**6-407.**~~

28 ~~**(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE AND**~~
29 ~~**THE PROJECT TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE SHALL TERMINATE**~~
30 ~~**ON JANUARY 1, 2023.**~~

31 ~~**(B) AFTER TERMINATION OF THIS SUBTITLE:**~~

~~(1) A PERSON MAY BE CONSIDERED FOR ELIGIBILITY FOR THE PROJECT TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE BASED ON POSITIONS FILLED BEFORE TERMINATION OF THIS SUBTITLE, PROVIDED THAT THE OTHER REQUIREMENTS OF THE SUBTITLE ARE SATISFIED; AND~~

~~(2) PROJECT TAX CREDITS EARNED MAY BE CARRIED FORWARD OR CLAIMED AS A REFUND IN ACCORDANCE WITH § 6 403 OF THIS SUBTITLE.~~

~~6-1002.~~

~~(a) There is an Opportunity Zone Enhancement Program in the Department.~~

~~(b) (1) The Department shall administer the tax credit enhancements offered under the Program.~~

~~(2) THE ENHANCEMENTS OFFERED UNDER THE PROGRAM SHALL BE APPLICABLE TO ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2018, BUT BEFORE JANUARY 1, 2023.~~

~~(c) (1) The Department shall publish on its website information about the Program and information reported by a qualified opportunity fund receiving enhanced tax credits under the Program.~~

~~(2) The information published on the website may not include any proprietary or confidential information.~~

~~(d) The Department, in consultation with the Department of Housing and Community Development, shall adopt regulations to carry out this subtitle, including criteria and procedures for determining eligibility for a Level 1 or Level 2 opportunity zone enhancement.~~

Article – Tax – General

1-301.

[(a)] In this subtitle, [the following words have the meanings indicated.

(b) “Evaluation”] “EVALUATION” means the process of legislative review of a tax credit, EXEMPTION, OR PREFERENCE for which this subtitle provides.

[(c) “Evaluation committee” means a committee that is appointed to carry out an evaluation.

(d) “Evaluation date” means the date on which an evaluation of a tax credit is to be completed.]

1 1-302.

2 The [purposes] PURPOSE of this subtitle [are] IS to[:

3 (1) establish a system of legislative review that will determine whether a
4 tax credit, EXEMPTION, OR PREFERENCE is necessary for the public interest[: and

5 (2) ensure that the legislative review takes place by establishing, by
6 statute, dates for review and other legislative action].

7 1-303.

8 [(a) An evaluation shall be made of the tax credits on or before the dates specified
9 in subsections (b) through (h) of this section.

10 (b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

11 (1) § 10-702 of this article (wages paid in an enterprise zone) and § 9-103
12 of the Tax – Property Article (qualified property in an enterprise zone); and

13 (2) Title 6, Subtitle 4 of the Economic Development Article, § 6-119 of the
14 Insurance Article, and § 10-714 of this article (One Maryland economic development).

15 (c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

16 (1) § 10-704 of this article (earned income); and

17 (2) § 10-730 of this article (film production activity).

18 (d) On or before July 1, 2016, an evaluation shall be made of the tax credit under
19 § 5A-303 of the State Finance and Procurement Article, § 6-105.2 of the Insurance Article,
20 and § 10-704.5 of this article (sustainable communities).

21 (e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

22 (1) § 9-230 of the Tax – Property Article, § 6-116 of the Insurance Article,
23 and § 10-704.8 of this article (new job creating businesses); and

24 (2) § 10-704.4 of this article (job creation).

25 (f) On or before July 1, 2018, an evaluation shall be made of the tax credits under:

26 (1) § 10-721 of this article (qualified research and development expenses);
27 and

28 (2) § 10-725 of this article (biotechnology investment incentive).

1 (g) On or before July 1, 2019, an evaluation shall be made of the tax credit under
2 § 10–702 of this article (wages paid in a Regional Institution Strategic Enterprise zone) and
3 § 9–103.1 of the Tax – Property Article (qualified property in a Regional Institution
4 Strategic Enterprise zone).]

5 **(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, ON A REQUEST**
6 **BY THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON**
7 **WAYS AND MEANS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF**
8 **LEGISLATIVE SERVICES, OR THE DIRECTOR OF THE OFFICE OF POLICY ANALYSIS**
9 **IN THE DEPARTMENT OF LEGISLATIVE SERVICES, THE DEPARTMENT OF**
10 **LEGISLATIVE SERVICES SHALL CONDUCT AN EVALUATION OF A STATE TAX CREDIT,**
11 **EXEMPTION, OR PREFERENCE, OR AN ASPECT OF A STATE TAX CREDIT, EXEMPTION,**
12 **OR PREFERENCE.**

13 **[(h)] (B) On or before July 1, 2021, THE DEPARTMENT OF LEGISLATIVE**
14 **SERVICES SHALL CONDUCT** an evaluation **[shall be made]** of the tax credit under §
15 10–741 of this article and the sales and use tax refund under § 11–411 of this article (More
16 Jobs for Marylanders tax credit).

17 **[(i)] (C) On or before July 1, 2023, THE DEPARTMENT OF LEGISLATIVE**
18 **SERVICES SHALL CONDUCT** an evaluation **[shall be made]** of the tax credits under §
19 10–733 of this article (cybersecurity investment incentive) and § 10–733.1 of this article
20 (purchase of cybersecurity technology or service).

21 [1–304.

22 (a) Evaluation of a tax credit shall be completed by an evaluation committee
23 appointed jointly by the President of the Senate and the Speaker of the House.

24 (b) Each evaluation committee for a tax credit shall be appointed on or before May
25 31 of the year before the evaluation date of that tax modification or tax exemption.

26 (c) An evaluation committee shall include at least one member of the Senate
27 Budget and Taxation Committee and at least one member of the House Committee on Ways
28 and Means.]

29 [1–305.] 1–304.

30 **[On or before June 30 of the year before the evaluation date of a tax credit] IN**
31 **CONDUCTING AN EVALUATION UNDER THIS SUBTITLE, [each evaluation committee for**
32 **that tax credit] THE DEPARTMENT OF LEGISLATIVE SERVICES shall:**

33 (1) consult with:

34 (i) the Department of Budget and Management;

1 (ii) [the Department of Legislative Services;

2 (iii)] the Comptroller; and

3 [(iv)] (III) the department, INSTRUMENTALITY OF THE STATE, OR
4 LOCAL GOVERNMENT that administers the tax credit, EXEMPTION, OR PREFERENCE
5 under evaluation; and

6 (2) prepare a plan for the evaluation.

7 [1-306.] 1-305.

8 During an evaluation, the Comptroller, the Department of Budget and Management,
9 and the department, INSTRUMENTALITY OF THE STATE, OR LOCAL GOVERNMENT that
10 administers the tax credit, EXEMPTION, OR PREFERENCE shall:

11 (1) provide promptly any information that the Department of Legislative
12 Services [or an evaluation committee] requests; and

13 (2) otherwise cooperate with the Department of Legislative Services [and
14 the evaluation committee].

15 [1-307.

16 (a) (1) Subject to § 2-1257 of the State Government Article, on or before
17 November 15 of the year before the evaluation date of a tax credit, the Department of
18 Legislative Services shall submit to the General Assembly an evaluation report on the tax
19 credit.

20 (2) The Department of Legislative Services shall make copies of the report
21 available to the public.

22 (b) The report required under subsection (a) of this section shall discuss:

23 (1) the purpose for which the tax credit was established;

24 (2) whether the original intent of the tax credit is still appropriate;

25 (3) whether the tax credit is meeting its objectives;

26 (4) whether the purposes of the tax credit could be more efficiently and
27 effectively carried out through alternative methods; and

28 (5) the costs of providing the tax credit, including the administrative cost
29 to the State and lost revenues to the State and local governments.]

1 [1-308.

2 On or before December 31 of the year before the evaluation date of a tax credit, the
3 evaluation committee shall hold a public hearing to receive, from the Comptroller and the
4 public, testimony regarding the evaluation report.]

5 [1-309.

6 (a) Subject to § 2-1257 of the State Government Article, on or before the 20th day
7 of the regular session of the General Assembly in the year of the evaluation date of a tax
8 credit, the evaluation committee for the tax credit shall submit a report to the General
9 Assembly.

10 (b) (1) The report required under subsection (a) of this section shall
11 recommend whether the tax credit should be continued, with or without changes, or
12 terminated.

13 (2) The report shall be accompanied by any legislation that is needed to
14 accomplish the recommendations in the report.]

15 [1-310.

16 The continuation of a tax credit designated for evaluation under this subtitle is for a
17 7-year period and is subject to reevaluation 7 years after the previous evaluation, unless
18 another period is set by law.]

19 **1-306.**

20 **IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, WITH**
21 **RESPECT TO EACH EVALUATION CONDUCTED BY THE DEPARTMENT OF**
22 **LEGISLATIVE SERVICES, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL**
23 **SUBMIT A REPORT TO THE GENERAL ASSEMBLY, THAT:**

24 **(1) DISCUSSES, TO THE DEGREE RELEVANT:**

25 **(I) THE PURPOSE FOR WHICH THE TAX CREDIT, EXEMPTION, OR**
26 **PREFERENCE WAS ESTABLISHED;**

27 **(II) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT,**
28 **EXEMPTION, OR PREFERENCE IS STILL APPROPRIATE;**

29 **(III) WHETHER THE TAX CREDIT, EXEMPTION, OR PREFERENCE**
30 **IS MEETING ITS OBJECTIVES;**

1 (IV) WHETHER THE PURPOSES OF THE TAX CREDIT, EXEMPTION,
2 OR PREFERENCE COULD BE MORE EFFICIENTLY AND EFFECTIVELY CARRIED OUT
3 THROUGH ALTERNATIVE METHODS; AND

4 (V) THE COSTS OF PROVIDING THE TAX CREDIT, EXEMPTION, OR
5 PREFERENCE, INCLUDING THE ADMINISTRATIVE COST TO THE STATE AND LOST
6 REVENUES TO THE STATE AND LOCAL GOVERNMENTS; AND

7 (2) RECOMMENDS WHETHER THE TAX CREDIT, EXEMPTION, OR
8 PREFERENCE SHOULD BE CONTINUED, WITH OR WITHOUT CHANGES, OR
9 TERMINATED.

10 [1-311.] 1-307.

11 This subtitle may be cited as the “Tax Credit Evaluation Act”.

12 10-732.

13 (b) (1) Subject to the limitations of this section, for a taxable year beginning
14 after December 31, 2012, but before January 1, [2022] 2020, an individual or a corporation
15 may claim credits against the State income tax for:

16 (i) security clearance administrative expenses, not to exceed
17 \$200,000;

18 (ii) expenses incurred for rental payments owed during the first year
19 of a rental agreement for spaces leased in the State if the individual or corporation is a
20 small business that performs security-based contracting, not to exceed \$200,000; and

21 (iii) subject to paragraph (2) of this subsection, construction and
22 equipment costs incurred to construct or renovate a single SCIF in an amount equal to the
23 lesser of 50% of the costs or \$200,000.

24 (2) The total amount of construction and equipment costs incurred to
25 construct or renovate multiple SCIFs for which an individual or a corporation is eligible to
26 claim as a credit against the State income tax is \$500,000.

27 10-741.

28 (d) (1) In this subsection, “Reserve Fund” means the More Jobs for
29 Marylanders Tax Credit Reserve Fund established under paragraph (2) of this subsection.

30 (2) (i) There is a More Jobs for Marylanders Tax Credit Reserve Fund
31 that is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State
32 Finance and Procurement Article.

1 (ii) The money in the Reserve Fund shall be invested and reinvested
2 by the Treasurer, and interest and earnings shall be credited to the General Fund.

3 (3) (i) Subject to the limitations of this subsection, the Department
4 shall issue an initial tax credit certificate in an amount equal to a percentage of total wages
5 paid for each qualified position at an eligible project as calculated under subsection (b)(2)
6 of this section.

7 (ii) An initial tax credit certificate issued under this subsection shall
8 state the maximum amount of tax credit for which the qualified business entity is eligible.

9 (iii) 1. Except as otherwise provided in this subparagraph, for
10 any fiscal year, the Department may not issue initial tax credit certificates for credit
11 amounts in the aggregate totaling more than:

12 **A. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES**
13 **ENROLLED IN THE MORE JOBS FOR MARYLANDERS PROGRAM BEFORE JULY 1,**
14 **2020, \$9,000,000 in a fiscal year; AND**

15 **B. WITH RESPECT TO QUALIFIED BUSINESS ENTITIES**
16 **ENROLLED IN THE MORE JOBS FOR MARYLANDERS PROGRAM ON OR AFTER JULY**
17 **1, 2020, \$5,000,000 IN A FISCAL YEAR.**

18 2. If the aggregate credit amounts under initial tax credit
19 certificates issued in a fiscal year total less than the maximum provided under
20 subsubparagraph 1 of this subparagraph, any excess amount shall remain in the Reserve
21 Fund and may be issued under initial tax credit certificates for the next fiscal year.

22 3. For any fiscal year, if funds are transferred from the
23 Reserve Fund under the authority of any provision of law other than under paragraph (4)
24 of this subsection, the maximum credit amounts in the aggregate for which the Department
25 may issue initial tax credit certificates shall be reduced by the amount transferred.

26 (iv) For fiscal year 2019 and each fiscal year thereafter, the Governor
27 shall include in the annual budget bill an appropriation to the Reserve Fund in an amount
28 that is no less than the amount the Department reports is necessary under subsection (e)
29 of this section to:

30 1. maintain the current level of manufacturing activity in the
31 State;

32 2. attract new manufacturing activity to the State; and

33 3. attract new businesses to and encourage the expansion of
34 existing businesses within opportunity zones in the State.

1 (v) Notwithstanding the provisions of § 7–213 of the State Finance
2 and Procurement Article, the Governor may not reduce an appropriation to the Reserve
3 Fund in the State budget as approved by the General Assembly.

4 (vi) Based on an amount equal to a percentage of the total actual
5 wages paid for each qualified position at an eligible project as calculated under subsection
6 (b)(2) of this section, the Department shall issue a final tax credit certificate to the qualified
7 business entity.

8 (4) (i) Except as provided in this paragraph, money appropriated to the
9 Reserve Fund shall remain in the Fund.

10 (ii) 1. Within 15 days after the end of each calendar quarter, the
11 Department shall notify the Comptroller as to each final credit certificate issued during the
12 quarter:

13 A. the maximum credit amount stated in the initial tax credit
14 certificate for the qualified business entity; and

15 B. the final certified credit amount for the qualified business
16 entity.

17 2. On notification that a final credit amount has been
18 certified, the Comptroller shall transfer an amount equal to the credit amount stated in the
19 initial tax credit certificate for the qualified business entity from the Reserve Fund to the
20 General Fund.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
22 as follows:

23 Article – Tax – General

24 10–721.

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

26 **(7) “NET BOOK VALUE ASSETS” MEANS THE TOTAL OF A BUSINESS’S**
27 **NET VALUE OF ASSETS, INCLUDING INTANGIBLES BUT NOT INCLUDING LIABILITIES,**
28 **MINUS DEPRECIATION AND AMORTIZATION.**

29 **[(7)] (8) “Small business” means a for–profit corporation, limited liability**
30 **company, partnership, or sole proprietorship with net book value assets totaling, at the**
31 **beginning or the end of the taxable year for which Maryland qualified research and**
32 **development expenses are incurred, as reported on the balance sheet, less than \$5,000,000.**

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

1 (1) FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2021, 3%
2 of the Maryland qualified research and development expenses, not exceeding the Maryland
3 base amount for the individual or corporation, paid or incurred by the individual or
4 corporation during the taxable year; and

5 (2) 10% of the amount by which the Maryland qualified research and
6 development expenses paid or incurred by the individual or corporation during the taxable
7 year exceed the Maryland base amount for the individual or corporation.

8 (c) (1) By November 15 of the calendar year following the end of the taxable
9 year in which the Maryland qualified research and development expenses were incurred,
10 an individual or corporation shall submit an application to the Department for the credits
11 allowed under subsection (b)(1) and (2) of this section.

12 (2) (i) Except as provided under paragraph (4) of this subsection, the
13 total amount of credits approved by the Department under subsection (b)(1) of this section
14 may not exceed:

15 1. \$4,500,000 in calendar year 2016; and

16 2. \$5,500,000 in [calendar year 2017 and each calendar year
17 thereafter] EACH OF CALENDAR YEARS 2017 THROUGH 2020.

18 (ii) Subject to paragraph (4) of this subsection, if the total amount of
19 credits applied for by all individuals and corporations under subsection (b)(1) of this section
20 exceeds the maximum specified under subparagraph (i) of this paragraph, the Department
21 shall approve a credit under subsection (b)(1) of this section for each applicant in an amount
22 equal to the product of multiplying the credit applied for by the applicant times a fraction:

23 1. the numerator of which is the maximum specified under
24 subparagraph (i) of this paragraph; and

25 2. the denominator of which is the total of all credits applied
26 for by all applicants under subsection (b)(1) of this section in the calendar year.

27 (3) (i) [Except] SUBJECT TO SUBPARAGRAPH (II) OF THIS
28 PARAGRAPH AND EXCEPT as provided in paragraph (4) of this subsection, the total
29 amount of credits approved by the Department under subsection (b)(2) of this section may
30 not exceed:

31 1. \$4,500,000 in calendar year 2016; and

32 2. \$6,500,000 in [calendar year 2017 and each calendar year
33 thereafter] EACH OF CALENDAR YEARS 2017 THROUGH 2020; AND

1 **3. \$9,000,000 IN CALENDAR YEAR 2021 AND EACH**
2 **CALENDAR YEAR THEREAFTER.**

3 **(II) THE DEPARTMENT SHALL MAKE AVAILABLE 30% OF THE**
4 **MAXIMUM AMOUNT OF CREDITS AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS**
5 **PARAGRAPH FOR APPLICANTS THAT ARE SMALL BUSINESSES.**

6 **(III) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY SMALL**
7 **BUSINESSES UNDER SUBSECTION (B)(2) OF THIS SECTION IS LESS THAN THE**
8 **AMOUNT MADE AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE**
9 **DEPARTMENT SHALL MAKE AVAILABLE THE UNUSED AMOUNT OF CREDITS FOR USE**
10 **BY INDIVIDUALS AND CORPORATIONS THAT ARE NOT SMALL BUSINESSES.**

11 **[(ii)] (IV) Subject to paragraph (4) of this subsection, if the total**
12 **amount of credits applied for by all individuals and corporations EXCLUDING SMALL**
13 **BUSINESSES under subsection (b)(2) of this section exceeds the maximum specified under**
14 **subparagraph (i) of this paragraph LESS THE AMOUNT MADE AVAILABLE UNDER**
15 **SUBPARAGRAPH (II) OF THIS PARAGRAPH, the Department shall approve a credit under**
16 **subsection (b)(2) of this section for each applicant in an amount equal to the product of**
17 **multiplying the credit applied for by the applicant times a fraction:**

18 **1. the numerator of which is the maximum specified under**
19 **subparagraph (i) of this paragraph LESS THE AMOUNT MADE AVAILABLE UNDER**
20 **SUBPARAGRAPH (II) OF THIS PARAGRAPH; and**

21 **2. the denominator of which is the total of all credits applied**
22 **for by all applicants EXCLUDING SMALL BUSINESSES under subsection (b)(2) of this**
23 **section in the calendar year.**

24 **(V) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE**
25 **TOTAL AMOUNT OF CREDITS APPLIED FOR BY SMALL BUSINESSES UNDER**
26 **SUBSECTION (B)(2) OF THIS SECTION EXCEEDS THE AMOUNT MADE AVAILABLE**
27 **UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT SHALL**
28 **APPROVE A CREDIT UNDER SUBSECTION (B)(2) OF THIS SECTION FOR EACH**
29 **APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE CREDIT**
30 **APPLIED FOR BY THE APPLICANT TIMES A FRACTION:**

31 **1. THE NUMERATOR OF WHICH IS THE AMOUNT MADE**
32 **AVAILABLE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH; AND**

33 **2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL**
34 **CREDITS APPLIED FOR BY ALL SMALL BUSINESS APPLICANTS UNDER SUBSECTION**
35 **(B)(2) OF THIS SECTION IN THE CALENDAR YEAR.**

1 1. has its headquarters and base of operations in this State;

2 2. has fewer than 50 full-time employees;

3 3. [except as provided in subparagraph (ii) of this paragraph,
 4 has been in active business no longer than 12 years] HAS NOT RECEIVED INVESTMENTS
 5 FROM QUALIFIED INVESTORS WHO HAVE COLLECTIVELY RECEIVED MORE THAN
 6 \$6,000,000 OF TAX CREDITS UNDER THIS SECTION;

7 4. does not have its securities publicly traded on any
 8 exchange; and

9 5. has been certified as a biotechnology company by the
 10 Department.

11 (ii) “Qualified Maryland biotechnology company” includes[:

12 1. a company that has been in active business for up to 15
 13 years if the Department determines that the company requires additional time to complete
 14 the process of regulatory approval;

15 2. a company that has been in active business no longer than
 16 12 years from the date the company first received a qualified investment under this section;
 17 or

18 3.] a company that, within 2 months of the receipt of the
 19 investment, has met the requirements of subparagraph (i) of this paragraph.

20 **Chapter 390 of the Acts of 2013, as amended by Chapter 578 of the Acts of 2018**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 22 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2013, but
 23 before January 1, [2023] 2021. This Act shall remain effective for a period of [10] 8 years
 24 and, at the end of June 30, [2023] 2021, with no further action required by the General
 25 Assembly, this Act shall be abrogated and of no further force and effect.

26 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1,
 27 2020, the Department of Commerce shall:

28 (1) in consultation with qualified experts in the biotechnology and
 29 cybersecurity industries, study the methods and criteria by which the Department might
 30 award tax credits under the biotechnology investment incentive tax credit program, the
 31 cybersecurity investment incentive tax credit program, and the Maryland research and
 32 development tax credit program on a competitive basis; and

1 (2) report to the General Assembly, in accordance with § 2-1257 of the
2 State Government Article, on its findings and recommendations.

3 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
4 effect July 1, 2021, and shall be applicable to all taxable years beginning after December
5 31, 2010.

6 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section
7 5 of this Act, this Act shall take effect June 1, 2020.

8 ~~10-725.~~

9 ~~(e) (1) At least 30 days prior to making an investment in a qualified Maryland~~
10 ~~biotechnology company for which a qualified investor would be eligible for an initial tax~~
11 ~~credit certificate under subsection (b) of this section, the qualified investor shall submit an~~
12 ~~application to the Department.~~

13 ~~(2) The application shall evidence that the qualified Maryland~~
14 ~~biotechnology company is:~~

15 ~~(i) in good standing;~~

16 ~~(ii) current in the payment of all tax obligations to the State or any~~
17 ~~unit or subdivision of the State; and~~

18 ~~(iii) not in default under the terms of any contract with, indebtedness~~
19 ~~to, or grant from the State or any unit or subdivision of the State.~~

20 ~~(3) (I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS~~
21 ~~PARAGRAPH, THE Department shall:~~

22 ~~[(i)] 1. approve all applications that qualify for credits under this~~
23 ~~section on a first-come, first-served basis; and~~

24 ~~[(ii)] 2. within 30 days of receipt of an application, certify the~~
25 ~~amount of any approved tax credits to a qualified investor.~~

26 ~~(H) THE DEPARTMENT MAY NOT ISSUE ANY TAX CREDIT~~
27 ~~CERTIFICATES UNDER THIS SECTION ON OR AFTER JANUARY 1, 2023.~~

28 ~~(4) (i) After the date on which the Department issues an initial tax~~
29 ~~credit certificate under this section, a qualified investor shall have 30 calendar days to~~
30 ~~make an investment in a qualified Maryland biotechnology company under this section.~~

1 (ii) ~~Within 10 calendar days after the date on which a qualified~~
2 ~~investor makes the investment, the qualified investor shall provide to the Department~~
3 ~~notice and proof of the making of the investment, including:~~

4 ~~1. the date of the investment;~~

5 ~~2. the amount invested;~~

6 ~~3. proof of the receipt of the invested funds by the qualified~~
7 ~~Maryland biotechnology company;~~

8 ~~4. a complete description of the nature of the ownership~~
9 ~~interest in the equity of the qualified Maryland biotechnology company acquired in~~
10 ~~consideration of the investment; and~~

11 ~~5. any reasonable supporting documentation the~~
12 ~~Department may require.~~

13 (iii) ~~If a qualified investor does not provide the notice and proof of the~~
14 ~~making of the investment required in subparagraph (ii) of this paragraph within 40~~
15 ~~calendar days after the date on which the Department issues an initial tax credit certificate~~
16 ~~under this section:~~

17 ~~1. the Department shall rescind the initial tax credit~~
18 ~~certificate; and~~

19 ~~2. the credit amount allocated to the rescinded certificate~~
20 ~~shall revert to the Maryland Biotechnology Investment Tax Credit Reserve Fund and shall~~
21 ~~be available in the applicable fiscal year for allocation by the Department to other initial~~
22 ~~tax credit certificates in accordance with the provisions of this section.~~

23 ~~10-730.~~

24 (f) (1) ~~Except as provided in paragraph (2) of this subsection, the Secretary~~
25 ~~may not issue tax credit certificates for credit amounts in the aggregate totaling more than:~~

26 ~~(i) for fiscal year 2014, \$25,000,000;~~

27 ~~(ii) for fiscal year 2015, \$7,500,000;~~

28 ~~(iii) for fiscal year 2016, \$7,500,000;~~

29 ~~(iv) for fiscal year 2019, \$8,000,000;~~

30 ~~(v) for fiscal year 2020, \$11,000,000;~~

31 ~~(vi) for fiscal year 2021, \$14,000,000;~~

1 (vii) ~~for fiscal year 2022, \$17,000,000; and~~

2 (viii) ~~for fiscal year 2023 [and each fiscal year thereafter],~~
3 ~~\$20,000,000.~~

4 (2) ~~If the aggregate credit amounts under the tax credit certificates issued~~
5 ~~by the Secretary total less than the maximum provided under paragraph (1) of this~~
6 ~~subsection in any fiscal year, any excess amount may be carried forward and issued under~~
7 ~~tax credit certificates in a subsequent fiscal year.~~

8 (3) ~~The Secretary may not issue tax credit certificates UNDER THIS~~
9 ~~SECTION:~~

10 (I) ~~for credit amounts totaling more than \$10,000,000 in the~~
11 ~~aggregate for a single film production activity; OR~~

12 (II) ~~FOR ANY FISCAL YEAR BEGINNING AFTER JUNE 30, 2023.~~

13 (4) (i) ~~For fiscal year 2019 and each fiscal year thereafter, the Secretary~~
14 ~~shall make 10% of the credit amount authorized under paragraph (1) of this subsection~~
15 ~~available for Maryland small or independent film entities.~~

16 (ii) ~~If the total amount of credits applied for by Maryland small or~~
17 ~~independent film entities is less than the amount made available under subparagraph (i)~~
18 ~~of this paragraph, the Secretary shall make available the unused amount of credits for use~~
19 ~~by qualified film production entities.~~

20 ~~10-733.1.~~

21 (d) (1) (i) ~~A qualified buyer eligible for the credit under this section may~~
22 ~~apply to the Department for a credit certificate that states the amount of the credit the~~
23 ~~qualified buyer may claim under subsection (b) of this section.~~

24 (ii) ~~A qualified buyer shall attach the credit certificate to the income~~
25 ~~tax return on which the qualified buyer claims the credit under subsection (b) of this~~
26 ~~section.~~

27 (2) ~~Subject to paragraph (3) of this subsection, the Secretary of Commerce~~
28 ~~shall approve each application under paragraph (1) of this subsection that qualifies for a~~
29 ~~credit certificate.~~

30 (3) (i) ~~The total amount of the credit certificates approved by the~~
31 ~~Secretary of Commerce under this subsection may not exceed:~~

32 1. ~~for taxable year 2018, \$2,000,000; and~~

1 ~~2. for taxable [year 2019 and each taxable year thereafter,]~~
2 ~~YEARS BEGINNING AFTER DECEMBER 31, 2018, BUT BEFORE JANUARY 1, 2023,~~
3 ~~\$4,000,000.~~

4 ~~(ii) For each taxable year, the Secretary of Commerce shall award~~
5 ~~25% of the amount of tax credits authorized under subparagraph (i) of this paragraph to~~
6 ~~qualified buyers that purchase cybersecurity services.~~

7 ~~(III) THE DEPARTMENT MAY NOT ISSUE ANY TAX CREDIT~~
8 ~~CERTIFICATES UNDER THIS SECTION ON OR AFTER JANUARY 1, 2023.~~

9 ~~10-748.~~

10 ~~(d) (1) Subject to the limitations of this subsection, on application by a small~~
11 ~~business, the Department shall issue a tax credit certificate in the amount allowable under~~
12 ~~subsection (c) of this section.~~

13 ~~(2) The application shall include:~~

14 ~~(i) the name of the small business;~~

15 ~~(ii) evidence that the small business is:~~

16 ~~1. duly organized and in good standing in the jurisdiction~~
17 ~~under the laws under which it is organized;~~

18 ~~2. current in the payment of all tax obligations to the State~~
19 ~~or any unit or subdivision of the State; and~~

20 ~~3. not in default under the terms of any contract with,~~
21 ~~indebtedness to, or grant from the State or any unit or subdivision of the State;~~

22 ~~(iii) proof of the wages paid to each qualified employee;~~

23 ~~(iv) proof of the qualified employer benefits accrued to each qualified~~
24 ~~employee; and~~

25 ~~(v) any other information that the Department requires.~~

26 ~~(3) The Department shall:~~

27 ~~(i) approve all applications that qualify for a tax credit certificate~~
28 ~~under this subsection on a first come, first served basis; and~~

29 ~~(ii) notify the small business within 45 days after the receipt of the~~
30 ~~application of the Department's approval or denial of the application.~~

