

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 223 (Delegate Palakovich Carr, *et al.*)
 Ways and Means

End Ineffective Business Subsidies Act of 2020

This bill terminates the following tax credit programs: (1) enterprise zone; (2) One Maryland; (3) Opportunity Zone Enhancement Program; and (4) biotechnology investment incentive. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: State revenues increase by \$4.4 million in FY 2023 and by \$12.9 million in FY 2025 due to the termination of specified tax credit programs. General fund expenditures for enterprise zone property tax reimbursements and biotechnology investment incentive tax credit appropriations decrease by \$12.1 million in FY 2023 and by \$15.4 million in FY 2025. Transportation Trust Fund (TTF) expenditures increase by \$0.1 million annually beginning in FY 2023.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	\$0	\$0.0	\$3.8	\$7.3	\$11.0
SF Revenue	\$0	\$0	\$0.6	\$1.2	\$1.9
GF Expenditure	\$0	\$0.0	(\$12.1)	(\$13.0)	(\$15.4)
SF Expenditure	\$0	\$0	\$0.1	\$0.1	\$0.1
Net Effect	\$0.0	\$0.0	\$16.4	\$21.3	\$28.1

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues will increase by \$0.1 million in FY 2023 and by \$3.5 million in FY 2025. Local expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill terminates the following tax credit programs:

- ***Enterprise Zone:*** The Secretary of Commerce may not designate or expand an enterprise zone or focus area on or after June 1, 2020. Under current law, a business located in an enterprise zone may apply to obtain the tax credit for an additional five years following the enterprise zone's expiration. The bill repeals this provision.
- ***One Maryland:*** The tax credit terminates on January 1, 2022. A business may be considered for tax credit eligibility if qualified positions are filled before this date. Tax credits earned before the program termination date can be carried forward and claimed in future tax years as provided under current law.
- ***Opportunity Zone Enhancement:*** The bill limits the enhanced tax benefits available under the program to tax years 2019 through 2021.
- ***Biotechnology Investment Incentive:*** The Department of Commerce (Commerce) may not issue a tax credit certificate on or after January 1, 2022.

Current Law/Background:

Enterprise Zone

The enterprise zone tax credit program, established in 1982, is intended to encourage economic growth within economically distressed areas of the State and to increase employment of the chronically unemployed. Businesses located within an enterprise zone are eligible for local property tax credits and State income tax credits. Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements in the enterprise zone. The income tax credit is based on wages paid to newly hired employees and can be taken over a one- to three-year period. The credits are based on the wages paid during the taxable year to each qualified employee and vary in value and length of time depending on whether the employee is certified by the Department of Labor as being economically disadvantaged and if the business is located in a focus area.

The Secretary of Commerce may designate one or more State enterprise zones within 60 days of a political subdivision's submission for an enterprise zone designation. Once approved, the enterprise zone designation is effective for 10 years. At any time, a political subdivision may reapply to the Secretary to designate another area as an enterprise zone. The Secretary of Commerce may designate annually six enterprise zones and

one extraordinary expansion. A county may not receive more than two enterprise zone designations in a calendar year.

Chapter 173 of 2006 granted the Secretary the authority to approve the expansion of an existing enterprise zone by up to 50% in size without the expansion counting toward the statutory limit. Pursuant to Chapter 362 of 2006, any business located in a State enterprise zone may apply for the tax credit for an additional five years following the zone's expiration.

The State Department of Assessments and Taxation reimburses local governments (through the department's annual general fund budget) for 50% of the property tax revenue decrease that results from the property tax credit.

In calendar 2019, there were 37 State enterprise zones comprising a total area of about 86,000 acres. In recent years, the program has increased by an average of 1,000 acres in each year. The Governor's proposed fiscal 2021 operating budget includes \$26.2 million in local property tax reimbursements. In recent years, an average of about \$1.0 million in income tax credits have been claimed.

One Maryland

The One Maryland Tax Credit program provides an income tax credit to a business that establishes or expands a facility located within certain counties that are considered economically distressed. The eligible project must create at least 10 jobs and result in \$500,000 in capital investments.

In addition, the qualified positions must also be filled for at least 12 months, be full-time, and pay 120% of the State minimum wage. A business may not also claim the job creation tax credit in the same tax year.

The expanded or new business facility must generally be:

- located within a priority funding area or a federal opportunity zone located within Allegany, Garrett, Somerset, or Wicomico counties; and
- primarily engaged within nine industries, research and development, or certain central office or company headquarters operations.

A county's unemployment rate and median household income within the last four years determine program eligibility.

The credit is the lesser of 100% of eligible project costs up to a maximum amount of \$5.0 million if the business creates at least 50 qualified positions, \$2.5 million (at least 25 qualified positions), or \$1.0 million (10 positions). A tax credit of up to \$5.5 million can be claimed within eligible federal opportunity zones.

Tax credits can be carried forward to 10 tax years and are partially refundable beginning in the fifth tax year.

In fiscal 2001 through 2019, Commerce awarded a total of \$302.0 million in tax credits. In the last four fiscal years, an annual average of \$19.8 million in credits have been awarded.

Opportunity Zone Enhancement

Chapter 211 of 2019 established the Opportunity Zone Enhancement Program. Administered by Commerce, the program provides enhanced incentives for qualifying businesses within an opportunity zone. Qualifying businesses within an opportunity zone may qualify for enhanced incentives under the following tax credit programs: (1) job creation; (2) One Maryland; (3) enterprise zone; (4) biotechnology investment incentive; (5) cybersecurity investment incentive; and (6) More Jobs for Marylanders. A business must also satisfy each program's applicable eligibility requirements and investment and job creation minimums.

The enhanced tax credits can be claimed beginning with tax year 2019.

Biotechnology Investment Incentive

Chapter 99 of 2005 established the biotechnology investment incentive tax credit program, which offers a refundable income tax credit for investments in qualified biotechnology companies. An investor who invests at least \$25,000 in a qualified Maryland biotechnology company can claim a credit equal to 50% of the investment, not to exceed \$250,000. If the qualified biotechnology company is located in Allegany, Dorchester, Garrett, or Somerset counties, the value of the credit for investments made in these companies is equal to 75% of the investment, not to exceed \$500,000.

Commerce administers the tax credit application process and may not certify investments in a single biotechnology company that total more than 15% of the total appropriations to the reserve fund for that fiscal year. The total amount awarded in each year is generally limited to the amount appropriated to the program.

The Governor's proposed fiscal 2021 operating budget includes \$12.0 million in funding for the program.

Recent Program Evaluations and Audits

Pursuant to the Tax Credit Evaluation Act of 2012, the Department of Legislative Services (DLS) has evaluated the enterprise zone, One Maryland, and biotechnology investment incentive tax credit programs. The [evaluations](#) of the tax credit programs can be found on the DLS website.

In September 2019, the Office of Legislative Audits issued a fiscal compliance audit of Commerce. A copy of the audit, and its findings related to the One Maryland and biotechnology investment incentive tax credits, can be found on the DLS [website](#).

State Fiscal Effect: The bill terminates the following tax credit programs: (1) enterprise zone; (2) One Maryland; (3) Opportunity Zone Enhancement Program; and (4) biotechnology investment incentive. While the bill will not have an impact in fiscal 2021, the net effect on State finances will be minimal in fiscal 2022, \$16.4 million in fiscal 2023, \$21.3 million in fiscal 2024, and \$28.1 million in fiscal 2025. **Exhibits 1 and 2** detail the estimated impact of the bill on State finances.

Exhibit 1
State Fiscal Impact by Program
Fiscal 2021-2025

<u>Program</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Enterprise Zone	\$0.0	*	\$0.1	\$1.1	\$3.9
One Maryland	0.0	\$0.0	3.9	7.8	11.8
Opportunity Zone	0.0	0.0	0.4	0.4	0.4
Biotechnology Investment	0.0	0.0	12.0	12.0	12.0
Total	\$0.0	\$0.0	\$16.4	\$21.3	\$28.1

*Less than \$50,000.

Exhibit 2
State Fiscal Impact by Fund
Fiscal 2021-2025

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Revenues					
General Fund	\$0	\$2,000	\$3,775,260	\$7,262,530	\$10,955,790
TTF	0	0	436,640	882,270	1,343,910
HEIF	0	0	179,100	362,200	552,300
Total Revenues	\$0	\$2,000	\$4,391,000	\$8,507,000	\$12,852,000
Expenditures					
General Fund	\$0	(\$15,000)	(\$12,070,000)	(\$12,961,000)	(\$15,362,000)
TTF	0	0	58,810	118,620	129,460
Total Expenditures	\$0	(\$15,000)	(\$12,011,190)	(\$12,842,380)	(\$15,232,540)
Net Impact	\$0	\$17,000	\$16,402,190	\$21,349,380	\$28,084,540

HEIF: Higher Education Investment Fund

TTF: Transportation Trust Fund

Local Revenues: Local highway user revenues will increase due to a reduction in tax credits claimed against the corporate income tax. Local property tax revenues will increase due to a reduction in enterprise zone property tax credits. **Exhibit 3** shows the impact of the bill on local revenues.

Exhibit 3
Local Fiscal Impact
Fiscal 2021-2025

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Local Highway User Revenues	\$0	\$0	\$58,810	\$118,620	\$129,460
Property Tax Revenues	0	15,000	70,000	961,000	3,362,000
Total	\$0	\$15,000	\$128,810	\$1,079,620	\$3,491,460

In addition, Montgomery County provides supplemental grants to investors who make qualified investments to biotechnology companies that are physically located in Montgomery County. Accordingly, local expenditures will decrease in Montgomery County due to the termination of the State program.

Small Business Effect: Small businesses that will not receive tax credits or investments under the specified programs will be negatively impacted.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Commerce; Baltimore City; Baltimore, Harford, Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; Comptroller's Office; Department of Housing and Community Development; State Department of Assessments and Taxation; Department of Legislative Services

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