

HOUSE BILL 1086

Q3, Q7

1lr2266

By: **Delegate Kaiser**

Introduced and read first time: February 5, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2021

CHAPTER _____

1 AN ACT concerning

2 **Maryland Tax Credit Evaluation Act – Alterations**

3 FOR the purpose of requiring a unit of State government that administers certain tax
4 credits to ~~adopt certain regulations before issuing certain certificates~~ report to
5 certain committees of the General Assembly, within a certain period of time after
6 enactment of the credits, on measures that the unit has taken to implement the
7 credits; renaming the Tax Credit Evaluation Act to be the Tax Expenditure
8 Evaluation Act; altering the purposes of the Act to include the legislative review of
9 tax exemptions and preferences; requiring the Department of Legislative Services to
10 conduct an evaluation of a State tax credit, exemption, or preference, or an aspect of
11 a State tax credit, exemption, or preference, under certain circumstances; requiring
12 the Department, beginning after a certain date, to conduct an evaluation of certain
13 credits under certain circumstances; authorizing the Department to conduct an
14 expedited review of a certain credit under certain circumstances; requiring the
15 Department, in consultation with the Senate Budget and Taxation Committee and
16 the House Committee on Ways and Means, to publish a certain schedule on the
17 Department's website; repealing provisions of law establishing a certain evaluation
18 committee; requiring certain instrumentalities of the State and local governments to
19 promptly provide certain information to the Department and otherwise cooperate
20 with the Department; requiring the Department, with respect to each evaluation, to
21 submit a certain report to the General Assembly; defining a certain term; making
22 conforming changes; and generally relating to income tax credits and the review and
23 evaluation of tax credits, exemptions, and preferences.

24 BY repealing and reenacting, with amendments,

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 Article – Economic Development
2 Section 5–1407(b)
3 Annotated Code of Maryland
4 (2018 Replacement Volume and 2020 Supplement)

5 BY adding to
6 Article – Tax – General
7 Section 1–206 and 1–306
8 Annotated Code of Maryland
9 (2016 Replacement Volume and 2020 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Tax – General
12 Section 1–301 through 1–303, 1–305, 1–306, and 1–311 to be under the amended
13 subtitle “Subtitle 3. Tax Expenditure Evaluation Act”
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2020 Supplement)

16 BY repealing
17 Article – Tax – General
18 Section 1–304 and 1–307 through 1–310
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2020 Supplement)

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

23 **Article – Economic Development**

24 5–1407.

25 (b) On or before December 15 of each year, the Department and the Comptroller
26 shall submit to the Governor and, in accordance with § 2–1257 of the State Government
27 Article, the Senate Budget and Taxation Committee[,] AND the House Committee on Ways
28 and Means[, and the Tax Credit Evaluation Committee] a report outlining the findings of
29 the Department and the Comptroller and any other information of value in determining
30 the effectiveness of the tax incentives authorized under this subtitle.

31 **Article – Tax – General**

32 **1–206.**

33 **(A) THIS SECTION DOES NOT APPLY TO AN INCOME TAX CREDIT THAT:**

34 **(1) WAS AUTHORIZED UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE**
35 **BEFORE JULY 1, 2021; OR**

1 (2) HAS AN ANNUAL FISCAL IMPACT OF LESS THAN \$5,000,000.

2 ~~(B) A UNIT OF STATE GOVERNMENT REQUIRED TO ADMINISTER AN INCOME~~
 3 ~~TAX CREDIT AUTHORIZED UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE MAY NOT~~
 4 ~~ISSUE A CERTIFICATE OF ELIGIBILITY TO CLAIM THE CREDIT UNTIL THE UNIT~~
 5 ~~ADOPTS REGULATIONS PROVIDING FOR THE ADMINISTRATION OF THE CREDIT.~~

6 (B) WITHIN 1 YEAR AFTER THE ENACTMENT OF AN INCOME TAX CREDIT
 7 AUTHORIZED UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE, A UNIT OF STATE
 8 GOVERNMENT REQUIRED TO ADMINISTER THE CREDIT SHALL REPORT, IN
 9 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE
 10 SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE COMMITTEE ON
 11 WAYS AND MEANS ON THE MEASURES THAT THE UNIT HAS TAKEN TO IMPLEMENT
 12 THE CREDIT.

13 Subtitle 3. Tax [Credit] EXPENDITURE Evaluation Act.

14 1-301.

15 (a) In this subtitle the following words have the meanings indicated.

16 (B) “DEPARTMENT” MEANS THE DEPARTMENT OF LEGISLATIVE SERVICES.

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

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

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

23 1-302.

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

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

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

29 1-303.

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

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

4 (1) § 10–702 of this article (wages paid in an enterprise zone) and § 9–103
5 of the Tax – Property Article (qualified property in an enterprise zone); and

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

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

9 (1) § 10–704 of this article (earned income); and

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

11 (d) On or before July 1, 2016, an evaluation shall be made of the tax credit under
12 § 5A–303 of the State Finance and Procurement Article, § 6–105.2 of the Insurance Article,
13 and § 10–704.5 of this article (sustainable communities).

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

15 (1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article,
16 and § 10–704.8 of this article (new job creating businesses); and

17 (2) § 10–704.4 of this article (job creation).

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

19 (1) § 10–721 of this article (qualified research and development expenses);

20 and

21 (2) § 10–725 of this article (biotechnology investment incentive).

22 (g) On or before July 1, 2019, an evaluation shall be made of the tax credit under
23 § 10–702 of this article (wages paid in a Regional Institution Strategic Enterprise zone) and
24 § 9–103.1 of the Tax – Property Article (qualified property in a Regional Institution
25 Strategic Enterprise zone).

26 (h) On or before July 1, 2021, an evaluation shall be made of the tax credit under
27 § 10–741 of this article and the sales and use tax refund under § 11–411 of this article (More
28 Jobs for Marylanders tax credit).]

29 **(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, ON A REQUEST**
30 **BY THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON**
31 **WAYS AND MEANS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THE**

1 **DIRECTOR OF THE OFFICE OF POLICY ANALYSIS IN THE DEPARTMENT, THE**
2 **DEPARTMENT SHALL CONDUCT AN EVALUATION OF A STATE TAX CREDIT,**
3 **EXEMPTION, OR PREFERENCE, OR AN ASPECT OF A STATE TAX CREDIT, EXEMPTION,**
4 **OR PREFERENCE.**

5 **[(i)] (B)** On or before July 1, 2023, **THE DEPARTMENT SHALL CONDUCT** an
6 evaluation **[shall be made]** of the tax credits under § 10–733 of this article (cybersecurity
7 investment incentive) and § 10–733.1 of this article (purchase of cybersecurity technology
8 or service).

9 **(C) (1) BEGINNING OCTOBER 1, 2022, THE DEPARTMENT SHALL**
10 **CONDUCT AN EVALUATION AT LEAST ONCE EVERY 10 YEARS OF EACH INCOME TAX**
11 **CREDIT THAT IS PRIMARILY CLAIMED BY BUSINESS ENTITIES AND HAS AN ANNUAL**
12 **FISCAL IMPACT EXCEEDING \$5,000,000.**

13 **(2) IN CONDUCTING A REEVALUATION OF AN INCOME TAX CREDIT**
14 **DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR WHICH THE**
15 **DEPARTMENT HAS PREVIOUSLY CONDUCTED AN EVALUATION, THE DEPARTMENT**
16 **MAY CONDUCT AN EXPEDITED REVIEW OF THE INCOME TAX CREDIT IF THE**
17 **DEPARTMENT DETERMINES THAT THERE HAVE BEEN NO SUBSTANTIAL**
18 **ALTERATIONS TO THE INCOME TAX CREDIT SINCE THE PREVIOUS EVALUATION WAS**
19 **CONDUCTED.**

20 **(D) IN CONSULTATION WITH THE SENATE BUDGET AND TAXATION**
21 **COMMITTEE AND THE HOUSE COMMITTEE ON WAYS AND MEANS, THE**
22 **DEPARTMENT SHALL PUBLISH ON THE DEPARTMENT’S WEBSITE A SCHEDULE OF**
23 **THE EVALUATIONS TO BE CONDUCTED BY THE DEPARTMENT.**

24 [1–304.

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

27 (b) Each evaluation committee for a tax credit shall be appointed on or before May
28 31 of the year before the evaluation date of that tax modification or tax exemption.

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

32 [1–305.] **1–304.**

33 [On or before June 30 of the year before the evaluation date of a tax credit, each
34 evaluation committee for that tax credit] **FOR EACH EVALUATION REQUIRED UNDER**
35 **THIS SUBTITLE, THE DEPARTMENT shall:**

1 (1) consult with:

2 (i) the Department of Budget and Management;

3 (ii) [the Department of Legislative Services;

4 (iii)] the Comptroller; and

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

8 (2) prepare a plan for the evaluation.

9 **[1-306.] 1-305.**

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

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

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

17 **1-306.**

18 (A) **THE DEPARTMENT SHALL PREPARE A REPORT ON THE EVALUATION**
19 **THAT:**

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

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

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

25 (III) **WHETHER THE TAX CREDIT, EXEMPTION, OR PREFERENCE**
26 **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) INCLUDE A RECOMMENDATION ON WHETHER THE TAX CREDIT,**
8 **EXEMPTION, OR PREFERENCE SHOULD BE CONTINUED, WITH OR WITHOUT**
9 **CHANGES, OR TERMINATED.**

10 **(B) FOR EACH EVALUATION CONDUCTED BY THE DEPARTMENT, THE**
11 **DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH**
12 **§ 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE EVALUATION.**

13 [1-307.

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

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

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

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

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

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

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

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

28 [1-308.

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

1 [1-309.

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

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

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

11 [1-310.

12 The continuation of a tax credit designated for evaluation under this subtitle is for a
13 7-year period and is subject to reevaluation 7 years after the previous evaluation, unless
14 another period is set by law.]

15 [1-311.] **1-307.**

16 This subtitle may be cited as the “Tax [Credit] **EXPENDITURE** Evaluation Act”.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
18 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.