SB 160

Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 160 (Chair, Budget and Taxation Committee)(By Request - Departmental - Commerce)

Budget and Taxation Ways and Means

Economic Development - Cybersecurity Investment Incentive Tax Credit Program - Expansion, Extension, and Study

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This departmental bill extends the duration of the Cybersecurity Investment Incentive Tax Credit (CIITC) Program by two years, through June 30, 2025, expands the applicability of the program to technology companies, rather than solely cybersecurity companies, and makes related changes. The program and its reserve fund are renamed accordingly. By December 1, 2021, the Department of Commerce must study and report to the General Assembly on the methods and criteria by which the department may award the program's tax credits on a competitive basis. **The bill takes effect June 1, 2021, and is applicable to all initial tax credit certificates issued after June 30, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by $2.0 million in FY 2024 and 2025. Commerce can complete the required study with existing budgeted resources; the bill does not otherwise materially affect State finances or operations. **This bill extends an existing mandated appropriation for two years – FY 2024 and 2025.**

($ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	$0	$0	$0	$0	$0
GF Expenditure	0	0	2.0	2.0	0
Net Effect	$0.0	$0.0	($2.0)	($2.0)	$0.0

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

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Commerce has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The (renamed) Innovation Investment Incentive Tax Credit is intended to foster the growth of Maryland's technology sectors by incentivizing investment in early-stage companies with the goal of increasing the number of companies developing innovative technologies in Maryland, increasing overall investments in current and emerging technology sectors, and increasing the number of individual investors actively investing in Maryland's technology companies.

Each year, upon conclusion of an evaluation and recommendation process involving the Maryland Economic Development Commission (MEDC) and the Maryland Department of Labor (MDL), Commerce must establish a list of eligible technology sectors for the program. Other program requirements are also modified, including (1) limiting aggregate awards to a single technology sector to 25% of the total annual program appropriation; (2) allowing companies to qualify for the program up for to four consecutive years, instead of two; and (3) specifying that, for purposes of the program, a "qualified investor" does not include a founder or current employee of the qualified Maryland technology company, if the company has been in active business for more than five years. Authorization to establish an advisory panel is repealed.

Current Law: Chapter 390 of 2013 established the CIITC Program, which provides a refundable tax credit *for investments in* qualified cybersecurity companies. Commerce administers the tax credit application, approval, and certification process. The total amount of credits awarded each year is generally limited to the amount appropriated to the program's reserve fund in that year, less administrative costs. The Governor is required to appropriate at least $2.0 million to the reserve fund in each fiscal year.

A qualified investor can claim a refundable credit equal to 33% of a qualified investment, not to exceed $250,000. Chapter 504 of 2016 increased the value of the tax credit if the qualified cybersecurity company in which an investment is made is located in Allegany, Dorchester, Garrett, or Somerset counties. The value of the credit for investments made in companies in these counties is equal to 50% of the investment, not to exceed $500,000. An otherwise qualifying company may claim a credit for up to two consecutive years.

The Comptroller must transfer final certified credit amounts from the reserve fund to the general fund on a quarterly basis. Amounts not transferred remain in the reserve fund.

Background: Commerce advises that the bill has two primary effects. First, the program will cover more businesses under the broader industry scope. Second, the program will be better able to respond to trends in innovation and research and development through the flexibility provided by the annual technology sector evaluation and recommendation process involving MDL and MEDC. For example, rather than needing to establish separate tax incentives to keep up with trends in cybersecurity, artificial intelligence, or material sciences, this single program can be used to support these industry sectors.

State Fiscal Effect: Tax credits issued under the CIITC program are generally limited to the amount appropriated to the program's reserve fund each year, less administrative costs. The bill does not increase the required annual appropriation and only expands eligibility. Commerce can implement the required changes with existing resources.

Therefore, the bill's fiscal impact is generally limited to extending the duration of the program by two years, through fiscal 2025. Assuming the program is funded at the required minimum level, general fund expenditures increase by $2.0 million annually in fiscal 2024 and 2025. However, there is no limit on the amount that can be appropriated to the reserve fund. To the extent that the Governor provides and the General Assembly approves more money to the reserve fund in any year, the increase in general fund expenditures will be greater.

The Comptroller has no additional costs under the bill, and it is assumed that MDL can complete its advisory role with existing resources.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Commerce; Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2021
rh/vlg Third Reader - February 18, 2021
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Economic Development – Cybersecurity Investment Incentive Tax Credit Program – Expansion and Extension

BILL NUMBER: SB 160

PREPARED BY: Michael Siers

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

____ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Between 2019 and 2029, the U.S. Bureau of Labor Statistics (BLS) forecasts that national employment will grow by 4%, while employment in computer-related occupations will grow by 11%. Therefore, finding ways to develop a robust network of computer-related firms is an essential part of a state's future-thinking economic development efforts. This is especially true as recent trends indicate that remote work will become increasingly popular, and therefore the need for cloud computing, secure systems, and support technologies will only continue to grow.

In Maryland, the Cybersecurity Investment Incentive Tax Credit (CIITC) provides incentives for investors in innovative cybersecurity firms. This tax credit focuses in on one of the most rapidly growing segments of the high-tech industry: for example, BLS forecasts that number of employed information security analysts (just one component of a cybersecurity workforce) will rise by 31% by 2029. However, the current wording of the CIITC is too restrictive. At present, the program is undersubscribed, in part due to definitional constraints that limit the number of firms that are eligible.

The proposed legislation broadens the definition of eligible businesses beyond a focus on businesses that "primarily" focus on cybersecurity to include companies that conduct research, development, or commercialization of innovative and proprietary technology. While this can include cybersecurity firms, it also gives the program enough flexibility to incentivize investments in other growth industries, such as artificial intelligence, energy, or material sciences.

Expanding the definitions allows for two effects to occur. First, the program will cover more businesses, thus supporting more new Maryland workers. This is especially true since the current program is undersubscribed. This is especially important because the majority of eligible firms are smaller and thus would benefit more from an increase in investment relative to larger firms. In 2018, for example, the Computer Systems Design and Related Services Industry (NAICS 5415) employed 86,984 workers in 5,279 firms. Of these firms, 4,524 employed fewer than 20 employees. By expanding the number of eligible firms, wider job growth will be supported.

Secondly, the program will be better able to respond to trends in innovation and research and development. In contrast to states that may have more narrowly defined programs designed to support innovation, Maryland's program will support innovation where it happens. For example, rather than needing to establish separate tax incentives to keep up with trends for cybersecurity, artificial intelligence, or material sciences, the CIITC will be able to support innovation in these industries and more if deemed to be a qualified industry sector by the Maryland Economic Development Commission.

Additionally, one potentially underrated aspect of a strong private cybersecurity and technology workforce in the State is the extent to which it minimizes the risk that cybersecurity and advanced computing programs at Maryland's federal installations are moved to other areas of the country should another round of Base Realignment and Closure (BRAC) occur. Instead, if Maryland's high-tech industry continues to grow, it is possible that a future iteration of BRAC could lead to programs from other states being moved to Maryland due to the potential synergies with the private sector.