SB 427

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 427 (The President, *et al.*) (By Request - Administration)

Budget and Taxation and Finance Rules and Executive Nominations

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Economic Development - Delivering Economic Competitiveness and Advancing Development Efforts (DECADE) Act

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This Administration bill alters, enhances, and transfers various economic development programs and tax credits. **The bill generally takes effect June 1, 2025. Most provisions modifying programs and tax credits take effect July 1, 2025. Provisions affecting specified income tax credits apply to tax year 2025 and beyond. Provisions affecting specified property tax credits apply to taxable years beginning after June 30, 2025.**

Fiscal Summary

State Effect: General fund revenues decrease by at least $2.8 million in FY 2026, escalating to at least $12.7 million in FY 2030, due to tax credit changes. General fund expenditures and general/special fund expenditures shown below are due to program extensions. Special fund revenues and expenditures shown below are the minimum effects of tax credit changes. **This bill reestablishes a mandated appropriation beginning in FY 2027.**

($ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	($2.8)	($2.8)	($12.7)	($12.7)	($12.7)
SF Revenue	($0.8)	($0.8)	($2.9)	($2.9)	($2.9)
GF Expenditure	$0	$0	$10.0	$10.0	$10.0
SF Expenditure	($0.1)	($0.1)	($0.3)	($0.3)	($0.3)
GF/SF Expenditure	$2.0	$2.0	$2.0	$2.0	$2.0
Net Effect	($5.5)	($5.5)	($27.3)	($27.3)	($27.3)

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

Local Effect: Local governments are affected, as discussed below.

Small Business Effect: The Administration 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/Current Law: A discussion of each provision in the bill is provided in **Appendix A**.

Background: The Administration advises that the bill is part of a broad-based effort to reinvigorate the State's approach to economic development.

State Fiscal Effect: The impact on State finances and operations is included in the discussion of each provision in Appendix A. There may be other relatively minor or incidental implementation costs for various State agencies not captured in the individual discussions below.

Local Fiscal Effect: Several provisions in the bill affect local government finances. The impact on local jurisdictions is included in the discussion of each provision in Appendix A. Generally, effects are due to receiving different levels of funding through various State economic development programs, changes to local highway user revenues from changes to tax credits claimed against the corporate income tax, and changes to property tax revenues.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 498 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means and Appropriations.

Information Source(s): Department of Commerce; Governor's Office of Small, Minority, and Women Business Affairs; Maryland Economic Development Corporation; Maryland Technology Development Corporation; Comptroller's Office; Maryland State Department of Education; University System of Maryland; Morgan State University; Department of Budget and Management; Maryland Department of the Environment; Department of Housing and Community Development; Maryland Department of Labor; Maryland Department of Planning; Board of Public Works; Maryland Department of Transportation; Department of Veterans and Military Families; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History:	First Reader - March 3, 2025
caw/jrb	Third Reader - April 7, 2025
	Revised - Amendment(s) - April 7, 2025
	Revised - Correction - April 7, 2025

Analysis by: Stephen M. Ross and Elizabeth J. Allison

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Alter and Rename Maryland Economic Development Assistance Authority and Fund

Provisions in the Bill: Repeal the Maryland Economic Development Assistance Authority and rename the Maryland Economic Development Assistance Fund (collectively, MEDAAF) as the Maryland Economic Competitiveness Fund. Repeal specified limits on financial assistance approved by the Secretary of Commerce and the authority. Repeal the requirement for a local government to provide a guarantee, matching funds, or both for a local economic development opportunity. Increase the limits on specified types of financial assistance. Require the Department of Commerce, instead of the authority, to annually establish a list of industry sectors that will be eligible for financial assistance from the fund; retain the industries currently directly specified in statute. Repeal specific requirements for loans and allow the department to set the terms.

Agency: Commerce

State Effect: The provisions do not alter overall funding for MEDAAF and have minimal or no effect on State finances.

Local Effect: Local governments benefit from reduced requirements to receive funding. The overall effect on any particular local government is likely limited.

Program Description: MEDAAF is Commerce's primary and most flexible tool for business financial assistance, with five capabilities, which are to provide:

- loans to businesses of up to $10.0 million for a significant economic development opportunity on a statewide or regional level;
- loans to businesses of up to $5.0 million, or conditional loans and grants to businesses of up to $2.0 million, for a local economic development opportunity;
- direct assistance to the Maryland Economic Development Corporation or a local jurisdiction for purposes such as land acquisition, infrastructure improvements, acquisition of fixed assets, and leasehold improvements;
- grants to regional or local revolving loan funds; and
- special purpose loans, including day care facilities, aquaculture, and brownfields.

Generally, businesses must be located within a priority funding area and an eligible industry sector. With few exceptions, assistance may not exceed 70% of total project costs.

Location of Provisions in the Bill: Section 2 (p. 19, pp. 22-37, p. 119)

Analysis prepared by: Stephen M. Ross

Alter and Rename Maryland Small Business Development Financing Authority

Provisions in the Bill: Repeal the Maryland Small Business Development Financing Authority (MSBDFA) and related references; replace responsibilities for oversight and administration with the Department of Commerce. Repeal four separate special funds: (1) the Small Business Development Contract Financing Fund; (2) the Small Business Development Guaranty Fund; (3) the Equity Participation Investment Program Fund; and (4) the Small Business Surety Bond Fund. Establish the Economic Inclusion Fund as the successor to the four repealed funds, consisting of four generally equivalent programs. Increase specified maximum financial assistance amounts under the programs.

Authorize Commerce to contract for specified services, including a private Maryland corporation to administer some or all of the programs of the fund. Authorize Commerce to contract for and accept specified sources of funding and to take other specified administrative actions. Increase related criminal penalties for defrauding the department.

Agency: Commerce

State Effect: The provisions do not alter overall funding for MSBDFA (renamed, under the bill, as the Maryland Economic Inclusion Fund) and have minimal or no effect on State finances.

Local Effect: The provisions do not materially affect local government finances or operations.

Program Description: MSBDFA provides financing options for small businesses that are not able to qualify for financing from private lending institutions or are owned by socially and economically disadvantaged persons. Subject to specified conditions, Commerce may (and does) contract for and engage the services of some or all of the MSBDFA staff to administer the authority's programs. MSBDFA has four special funds in statute, listed above, that in practice already operate as programs.

Location of Provisions in the Bill: Section 2 (p. 19, pp. 37-72)

Analysis prepared by: Stephen M. Ross

Alter and Transfer Commerce Programs to the Maryland Economic Development Corporation and Authorize Use of Funds for Administrative Expenses

Provisions in the Bill: Transfer the Regional Institution Strategic Enterprise (RISE) Zone Program and the Build Our Future Grant (BOFG) Pilot Program from the Department of Commerce to the Maryland Economic Development Corporation (MEDCO) and make conforming changes.

Authorize a RISE zone to be renewed for an additional 10 years, instead of five years. Expand eligibility for rental assistance by removing the requirement that a business entity have a nexus with a qualified institution and be an active business for no more than seven years. Increase the maximum duration of rental assistance from three to five years. Allow a qualified institution, a county, a municipality, or an economic development entity that establishes a rental assistance program to receive funding without providing matching funds. Repeal prohibition on designating a RISE zone in a development district or Baltimore City special taxing district.

Extend termination date of BOFG Pilot Program from June 30, 2027, to June 30, 2030. Require MEDCO to prioritize program applicants located in RISE zones.

Authorize MEDCO to utilize up to 5% of the allocated appropriation for administrative costs for any project or program directed by MEDCO included in the State's operating or capital budget.

Alter membership of the MEDCO board.

Agency: Commerce; MEDCO

State Effect: General fund expenditures for Commerce decrease by $10.75 million annually in fiscal 2026 and 2027 as the RISE Zone Program ($750,000) and BOFG Pilot Program ($10.0 million) are transferred to MEDCO. General fund expenditures for MEDCO increase correspondingly to reflect the transfer. General fund expenditures for MEDCO increase by $10.0 million annually from fiscal 2028 through 2030 as the BOFG Pilot Program is extended by three years. Up to 5% of the funding applicable to the transferred programs may be utilized by MEDCO for administrative expenses. Overall funding for the transferred programs is not directly affected.

Both programs have associated special funds for their administration. Accordingly, special fund revenues and expenditures for Commerce decrease while special fund revenues and expenditures for MEDCO increase coincident with the changes in general fund appropriations described above. Other changes are not anticipated to materially affect State finances or operations.

Local Effect: Local governments benefit from significant additional funding available under the BOFG Pilot Program from fiscal 2028 through 2030, but they may be affected by changes to program allocation criteria. Other changes are not anticipated to materially affect local government finances or operations.

Program Description:

Regional Institution Strategic Enterprise Zone Program

The purposes of the RISE Zone Program are to (1) access institutional assets that have a strong and demonstrated history of commitment to economic development and revitalization in the communities in which they are located and (2) incentivize the location of innovative start-up businesses based on technology developed, licensed, or poised for commercialization at or in collaboration with qualified Maryland institutions. Qualified institutions include institutions of higher education (public and private four-year institutions and community colleges), nonprofit organizations affiliated with federal agencies, and regional higher education centers. Businesses that are located within a zone and meet program requirements qualify for program benefits and priority consideration for specified State financial assistance programs.

The Secretary of Commerce designates RISE zones, subject to specified requirements, for a period of five years with an optional five-year renewal. Zones may not exceed 500 acres. Except for Baltimore City, which can have four RISE zones, no more than three RISE zones may be designated in a single county or municipality.

Chapters 206 and 207 of 2021 made significant modifications to the RISE Zone Program, most notably to the incentives offered. More specifically, a rental assistance grant program and enhanced investment incentive tax credits were established, while property tax credits were limited to businesses that located in a RISE zone before January 1, 2023, and income tax credits were ended after tax year 2022.

Under the rental assistance grant program, a qualified institution, county, and municipality, or the economic development agency of the local government may establish a program to provide rental assistance to a business that (1) moves into or locates in a RISE zone on or after the date of the zone designation; (2) has nexus with the qualified institution; and (3) has been in active business for a maximum of seven years. A business may receive funds under a program for a maximum of three years. Subject to available funding, Commerce must provide three times the amount of funding provided by the RISE zone entity’s rental assistance program.

Build Our Future Grant Pilot Program

Chapters 430 and 431 of 2023 established the BOFG Pilot Program and Fund in Commerce to provide grant funding for infrastructure projects intended to support innovation in eligible technology sectors. Under the program, grants of up to $2.0 million may be awarded to private companies, nonprofits, local governments, or colleges and universities in the State and may be used to defray specified costs associated with an eligible innovation infrastructure project. A grant recipient must provide matching funds of either 200% or 400%, depending on the size of the grant. Additional requirements are placed on grants to be used by colleges and universities. A single entity is limited to $2.0 million in grants in a fiscal year. The program terminates June 30, 2027.

Maryland Economic Development Corporation

MEDCO is a nonbudgeted entity created in 1984 by the General Assembly to assist business and governmental entities through ownership, financing, and development of real and personal property projects. MEDCO purchases or develops property that is leased to others and makes loans to companies throughout the State to maintain or develop facilities. MEDCO has broad powers to finance projects and most often is a conduit issuer of tax-exempt revenue bonds to an eligible tax-exempt borrower. MEDCO has also issued its bonds to finance its own projects, which it owns and operates. MEDCO-owned projects consist mostly of student housing projects. Generally, MEDCO debt is not debt of the State, and there is no implied State guaranty or State obligation to protect bondholders from losses.

Location of Provisions in the Bill: Section 1 (p. 6) and Section 2 (pp. 18-19, pp. 81-96, pp. 118-119)

Analysis prepared by: Stephen M. Ross

Alter Maryland Technology Development Corporation Disinvestment Requirements

Provisions in the Bill: Require the Maryland Technology Development Corporation (TEDCO) to adopt regulations establishing responsibilities of its investment committee that include a process for considering remedies, including disinvestment, for investments in a business that no longer meets the definition of a qualified business. Alter provisions related to equity disinvestment to allow, rather than require, disinvestment and to also allow for another remedy that is in TEDCO's best interest.

Agency: TEDCO

State Effect: While financial returns to TEDCO may increase, the provisions are not anticipated to materially affect State finances.

Local Effect: None.

Program Description: TEDCO is an independent entity established by the Maryland General Assembly in 1998 to enhance the transfer of technology from universities and federal laboratories to the private sector and foster the growth of companies in critical or high-growth sectors. TEDCO investments must meet statutory eligibility criteria that generally require a business to have and subsequently maintain a presence in the State. TEDCO programs typically assist companies based on a company's stage of development, from early stage and technology transfer to growth stage.

TEDCO must adopt regulations establishing an investment committee, its responsibilities, and the procedures for appointing its members. TEDCO must divest itself of an equity investment within 15 years.

Location of Provisions in the Bill: Section 2 (pp. 96-99)

Analysis prepared by: Stephen M. Ross

Alter Child Care Capital Support Revolving Loan Fund

Provisions in the Bill: Alter the Child Care Capital Support Revolving Loan Fund by (1) limiting eligibility for loans provided for renovations, as specified; (2) generally, changing the *maximum* five-year duration of loans from the fund to a *minimum* five-year duration; (3) allowing up to $50,000 of a loan provided to a family child care home or large family child care home to be converted to a grant in specified circumstances; (4) requiring the Department of Commerce, and not the Maryland State Department of Education (MSDE), to prioritize specified applicant criteria when providing funding from the fund; and (5) altering prioritization criteria and allowing for temporary reprioritization of those criteria, as specified. Establish that the top prioritization is for providers that will increase the number of available child care slots the provider may offer, followed by child care providers that are located in areas identified as lacking child care slots.

Agency: Commerce; MSDE

State Effect: Special fund expenditures for the Child Care Capital Support Revolving Loan Fund are not affected in the short term. Over time, extending loan repayments and allowing for a portion of loans to be converted to grants reduces special fund revenues and expenditures each year, as funds are unavailable to be re-loaned.

Local Effect: None.

Program Description: Chapter 466 of 2022 established the Child Care Capital Support Revolving Loan Fund to provide no-interest loans for capital expenses to child care providers who participate in the Child Care Scholarship (CCS) Program. The fund is a special, nonlapsing fund administered by Commerce, with support from MSDE.

Commerce, in consultation with MSDE, must establish application procedures and eligibility criteria for loans from the fund. In addition to requiring that the child care provider be a participant in the CCS Program, MSDE must give priority to child care providers, in the following order, that (1) are located in underserved communities or areas lacking child care slots; (2) are located in rural communities; (3) serve primarily low-income populations in areas of high poverty; (4) serve children with special needs; and (5) serve children ages two and younger. Commerce must work with MSDE to publicize the availability of loans from the fund and provide support to child care providers in applying for loans from the fund.

Allowable expenses for the loans include acquisition, expansion, renovations, and new construction related to a child care facility. Child care providers must repay loans from the fund within five years of receiving a loan. However, Commerce may establish a financial hardship exemption to allow a child care provider additional time to repay a loan from the fund. If a hardship exemption is not granted, Commerce must apply its normal policy regarding assisting child care providers with past-due loan payments.

Location of Provisions in the Bill: Section 2 (pp. 102-106)

Analysis prepared by: Stephen M. Ross

Reallocate Video Lottery Terminal Distributions between Maryland Small, Minority, and Women-owned Businesses Account and Maryland Small Business Development Financing Authority

Provision in the Bill: Reallocates 0.6% of video lottery terminal (VLT) revenues from the Maryland Small, Minority, and Women-Owned Businesses Account (SMWOBA) to the Maryland Small Business Development Financing Authority (MSBDFA, under the bill, the Maryland Economic Inclusion Fund). SMWOBA retains 0.9% of VLT revenues.

Agency: Department of Commerce

State Effect: Overall special fund revenues and expenditures for Commerce are unaffected, although funding is reallocated between two Commerce programs.

Local Effect: Local economic development corporations may receive less funding from eligible fund managers under SMWOBA beginning in fiscal 2026.

Program Description: SMWOBA is used to provide loans and grants to small, minority, and women-owned businesses in the State. A small percentage of gross VLT proceeds (1.5%) is distributed to SMWOBA each fiscal year. Commerce then provides grants from SMWOBA to eligible fund managers – in practice, mostly a mixture of county development corporations and private firms. The fund managers then provide loans and grants to small, minority, and women-owned businesses in the State. Generally, grants are limited to $10,000 per recipient and, except in the case of certain disasters or emergencies, must be issued in conjunction with a loan.

MSBDFA provides financing options for small businesses that are not able to qualify for financing from private lending institutions or are owned by socially and economically disadvantaged persons. Subject to specified conditions, Commerce may (and does) contract for and engage the services of some or all of the MSBDFA staff to administer the authority's programs. MSBDFA has four special funds in statute that in practice already operate as programs.

Location of Provision in the Bill: Section 2 (p. 116)

Analysis prepared by: Stephen M. Ross

Alter Biotechnology Investment Incentive and Innovation Investment Incentive Tax Credits

Provisions in the Bill: Make various similar alterations to the Biotechnology Investment Incentive Tax Credit (BIITC) and Innovation Incentive Tax Credit (IITC) programs. Specifically, the provisions:

- increase the value of the enhanced credits for investments in qualified companies located in Regional Institution Strategic Enterprise (RISE) zones from 50% to 75% of the investment, up to $750,000 (increased from $500,000) and repeal certain related eligibility criteria;
- conform the IITC opportunity zone enhancements to the BIITC opportunity zone enhancements by (1) expanding eligibility to qualified opportunity funds (QOFs) that invest in qualified Maryland technology companies located in Allegany, Dorchester, Garrett, or Somerset counties; (2) increasing the Level 1 opportunity zone enhancement from 33% to 65% of the qualified investment, up to $575,000 (increased from $300,000); and (3) increasing the Level 2 opportunity zone enhancement from 50% to 75% of the qualified investment, up to $750,000 (increased from $500,000);
- extend the IITC program for tax years 2025 through 2029;
- for tax year 2026 and beyond, allow pass-through entities (PTEs) that elect to be taxed at the entity level for Maryland income tax purposes to claim and allocate the credits among their members in any manner; and
- for tax year 2026 and beyond, require the Comptroller to provide a means for a qualified investor to file the investor's return electronically.

Agency: Department of Commerce; Comptroller

State Effect: As discussed below, BIITC and IITC tax credit awards are subject to annual appropriations to the BIITC and IITC reserve funds. The fiscal 2026 budget as introduced includes a $12.0 million appropriation to the BIITC Reserve Fund, including $8.6 million in general funds and $3.4 million in special funds (reflecting the unused fund balance carried over from the prior year). To the extent the provisions increase utilization of the BIITC Reserve Fund, general fund expenditures may increase in fiscal 2027 and 2028 in order to maintain (or increase) the existing funding level for the BIITC program. Any such effect cannot be reliably predicted.

With respect to the extension and alteration of the IITC program, the Department of Legislative Services notes that the Governor's budget as introduced does not include an appropriation to the IITC Reserve Fund. However, the provisions extend an existing $2.0 million annual mandated appropriation to this fund – which, under current law, expires after fiscal 2025. Thus, general and special fund expenditures (reflecting any prior-year unused reserve fund balance) increase by $2.0 million in fiscal 2026 (at the Governor's discretion) and future years. Commerce advises that the current balance of the IITC Reserve Fund is $1.4 million. As discussed in the Additional Comments section of this analysis, it is unclear whether the mandated appropriation terminates after the expiration of IITC benefits under the provisions.

Local Effect: None.

Program Description: The BIITC and IITC programs offer refundable State income tax credits to qualified investors that invest at least $25,000 in a qualified Maryland biotechnology company or qualified Maryland technology company, respectively. The credit is generally equal to 33% of the qualified investment, up to $250,000. Investments in qualified Maryland biotechnology and technology companies located in Allegany, Dorchester, Garrett, or Somerset counties or in a RISE zone (subject to certain requirements) are eligible for enhanced credits equal to 50% of the qualified investment, up to $500,000. As discussed above, QOFs that invest in qualified companies located in an opportunity zone are also eligible for certain enhanced credits for tax years 2019 through 2026.

Commerce administers the tax credit application, approval, and certification process. Tax credit awards are subject to annual appropriations to the BIITC and IITC reserve funds; Commerce may not certify eligibility for tax credits for investments in a single qualified company that exceed 10% or 15% of the total appropriations to the BIITC or IITC reserve funds, respectively, for the fiscal year. The Comptroller must transfer the amount of certified credits from the corresponding reserve fund to the general fund on a quarterly basis. The IITC program statute specifies that the Governor must include in the annual budget bill an appropriation of at least $2.0 million to the IITC Reserve Fund; this funding mandate sunsets after fiscal 2025 due to the program's June 30, 2025 termination date. The Governor must also include an annual appropriation to the BIITC Reserve Fund; however, statute does not specify a required funding level. Commerce may not issue any tax credit certificates under the BIITC program after fiscal 2028.

Additional Comments: The provisions repeal the termination date of the IITC program and extend program benefits for tax years 2025 through 2029. Absent a conforming change to Tax-General Article § 10-733(e)(3)(iv), which requires the Governor to include an annual appropriation of $2.0 million to the IITC Reserve Fund, it is unclear whether this funding mandate continues after program benefits have sunset. Any such effect is beyond the five-year scope of this fiscal and policy note.

Location of Provisions in the Bill: Section 3 (pp. 119-120, pp. 127-130, pp. 137-141) and Section 6 (p. 149)

Analysis prepared by: Elizabeth J. Allison

Enhance Community Investment Tax Credit in Regional Institution Strategic Enterprise Zones

Provision in the Bill: Increases the value of the Community Investment Tax Credit from 50% to 60% of the value of an eligible contribution if the approved project or the business entity is located within a Regional Institution Strategic Enterprise (RISE) zone or RISE zone catchment area (as provided under the bill).

Agency: Department of Housing and Community Development (DHCD); Comptroller

State Effect: General fund revenues may decrease by an indeterminate amount beginning in fiscal 2026. To the extent increased credits are claimed against the corporate income tax, Higher Education Investment Fund revenues and Transportation Trust Fund revenues and expenditures also decrease. To the extent increased income tax credits are claimed by a corporation that operates a qualified data center, Strategic Energy Investment Fund revenues are also affected. State revenue losses resulting from the provision do not exceed $350,000 in any given year.

Local Effect: To the extent increased credits are claimed against the corporate income tax, local highway user revenues decrease beginning in fiscal 2026.

Program Description: An individual or a business entity may claim a nonrefundable tax credit against the income tax, insurance premium tax, or public service company franchise tax for a contribution worth more than $500 in goods, money, or real property to an approved project under the Neighborhood and Community Assistance Program. The tax credit is equal to 50% of the amount of approved contributions made during the tax year, up to $250,000. Any excess credit, including any amount that would be allowed but for the $250,000 limit, may be carried forward for up to five tax years. DHCD administers the tax credit application, approval, and certification process. The sum of contributions eligible for the tax credit may not exceed $3,500,000 for all approved projects for a fiscal year.

Location of Provision in the Bill: Section 3 (pp. 121-122)

Analysis prepared by: Elizabeth J. Allison

Extend Research and Development Tax Credit

Provisions in the Bill: Extend the Research and Development (R&D) Tax Credit Program for tax years 2026 through 2030.

Agency: Department of Commerce; Comptroller

State Effect: No effect in fiscal 2026 or 2027. In fiscal 2028, general fund revenues decrease by an estimated $9.8 million, Higher Education Investment Fund and Transportation Trust Fund (TTF) revenues decrease by an estimated $0.6 million and $1.6 million, respectively, and TTF expenditures for local highway user revenues decrease by an estimated $0.3 million. General fund revenues and special fund revenues and expenditures decrease by similar amounts annually through fiscal 2032. This estimate assumes that 80% of credits are claimed against the corporate income tax and the remaining 20% are claimed against the personal income tax. Actual revenues and expenditures under the provisions may differ from this estimate due to the timing of tax credit claims and carryforwards.

Local Effect: No effect in fiscal 2026 or 2027. Local highway user revenues decrease by an estimated $0.3 million in fiscal 2028 and by similar amounts annually through fiscal 2032. Actual local highway user revenues under the provisions may differ from this estimate due to the timing of tax credit claims and carryforwards.

Program Description: The Maryland R&D tax credit is equal to 10% of the amount of Maryland qualified R&D expenses paid or incurred during the tax year that exceed the Maryland base amount (as defined), subject to an annual $250,000 per-taxpayer cap and certain annual aggregate limits. The tax credit is generally nonrefundable and may be carried forward for up to seven years after the tax year in which the expense was incurred. The tax credit is fully refundable for a small business, which is defined as a for-profit corporation, limited liability company, partnership, or sole proprietorship with net book value assets totaling less than $5.0 million at the beginning or end of the taxable year for which Maryland qualified R&D expenses are incurred.

Commerce administers the tax credit application, approval, and certification process and may approve up to $12.0 million in tax credits annually, of which $3.5 million is set aside for small businesses. If the total amount of credits applied for by small businesses exceeds $3.5 million, the amount approved for each small business applicant is reduced by a proportional amount of the excess. Similarly, if the total amount of credits applied for by non-small businesses exceeds $8.5 million (plus any unused amount of the small business set-aside), the amount approved for each non-small business applicant is reduced by a proportional amount of the excess. The tax credit program terminates June 30, 2027.

Location of Provisions in the Bill: Section 3 (pp.123-127) and Section 5 (pp. 148-149)

Analysis prepared by: Elizabeth J. Allison

Alter Film Production Activity Tax Credit

Provisions in the Bill: Make the film production activity tax credit transferrable and authorize a qualified film production entity to amend its initial application for the tax credit if an independent auditor has verified that the projected total budget has increased or decreased by at least 50%. Require, upon approval of an amended application, the Secretary of Commerce to notify the Comptroller of the amended estimated amount of total direct costs and the taxable year the credit will be claimed.

Agency: Department of Commerce; Comptroller

State Effect: For purposes of this analysis, it is assumed that the provisions do not materially affect State revenues or expenditures. However, to the extent the credit's transferability increases the share of credits claimed against the personal income tax (and decreases the share of credits claimed against the corporate income tax), general fund revenues decrease, and special fund revenues (Higher Education Investment Fund and Transportation Trust Fund (TTF) revenues) increase accordingly, as do TTF expenditures for local highway user revenue grants. Given the credit's full refundability under current law, it is assumed that any tax credit transfer activity under the provisions will be minimal.

Local Effect: For purposes of this analysis, it is assumed that local revenues are not materially affected; however, to the extent the credit's transferability decreases the share of credits claimed against the corporate income tax, local highway user revenues increase. Local expenditures are not affected.

Program Description: A qualified film production entity may apply for and claim a refundable credit against the State income tax for film production activities in the State in an amount equal to 28% of qualified total direct costs (30% for a television series) as stated on a final tax credit certificate approved by the Secretary of Commerce. Commerce may not approve credits totaling more than $10.0 million in aggregate for a single film production activity.

Chapter 434 of 2023 increased the maximum amount of credits Commerce may award annually from $12.0 million to $15.0 million for fiscal 2024, $17.5 million for fiscal 2025, and $20.0 million for fiscal 2026. For fiscal 2027 and beyond, the annual limit on aggregate tax credit awards returns to $12.0 million. Any unused amount may be issued in a subsequent year. Commerce must reserve 10% of the total authorized amount each year for Maryland small or independent film entities.

Location of Provisions in the Bill: Section 3 (pp. 130-133)

Analysis prepared by: Elizabeth J. Allison

Enhance and Sunset Buy Maryland Cybersecurity Tax Credit

Provisions in the Bill: Alter the Buy Maryland Cybersecurity Tax Credit by (1) codifying the program name; (2) making the credit fully refundable; (3) increasing the annual aggregate limit on the amount of credits that may be claimed for cybersecurity technology or cybersecurity services purchased from a single qualified seller from $200,000 to $1.0 million; (4) expanding the definition of "qualified buyer" for purposes of the credit to include businesses with 50 or more employees in the State; (5) expanding the definition of "qualified seller" to include cybersecurity businesses with $5.0 million to $10.0 million in annual revenue; (6) repealing a requirement that the Secretary of Commerce award 25% of the annual authorized amount of credits to qualified buyers that purchase cybersecurity services; (7) repealing an authorization for the Department of Commerce to establish a specified panel to assist the department in determining if a cybersecurity business is a qualified seller; (8) specifying program intent; and (9) sunsetting the program after tax year 2029. Apply the provisions to tax year 2025 and beyond.

Agency: Commerce; Comptroller

State Effect: In fiscal 2026, general fund revenues decrease by an estimated $2.8 million, Higher Education Investment Fund revenues decrease by an estimated $0.2 million, Transportation Trust Fund (TTF) revenues decrease by an estimated $0.6 million, and TTF expenditures for local highway user revenue grants decrease by an estimated $0.1 million. General fund revenues and special fund revenues and expenditures decrease by similar amounts annually through fiscal 2030. To the extent credits are claimed by a corporation that operates a qualified data center, Strategic Energy Investment Fund revenues are also affected. This estimate assumes that (1) the provisions sufficiently increase utilization of the tax credit to maximize the existing $4.0 million annual limit on tax credit awards and (2) 80% of overall tax credit awards under the program as modified by the provisions are claimed against the corporate income tax.

Local Effect: Local highway user revenues decrease by an estimated $0.1 million annually in fiscal 2026 through 2030.

Program Description: Chapter 578 of 2018 established a nonrefundable credit against the State income tax for costs incurred by qualified buyers (defined as any entity that has fewer than 50 employees in the State and is required to file a Maryland income tax return) to purchase cybersecurity technology or services from a qualified seller. The value of the credit is equal to 50% of the eligible costs incurred, not to exceed $50,000 per qualified buyer. For purposes of the credit, "qualified seller" is defined as a cybersecurity business that (1) has its headquarters and base of operations in the State; (2) has less than $5.0 million in annual revenue, is a minority-owned, woman-owned, veteran-owned, or service-disabled veteran-owned business, or is located in a historically underutilized business zone designated by the U.S. Small Business Administration; and (3) owns or has properly licensed any proprietary cybersecurity technology or provides a cybersecurity service (among other specified requirements). The Secretary of Commerce may approve up to $4.0 million in tax credit certificates annually and must award 25% of the amount of authorized tax credits to qualified buyers that purchase cybersecurity services. On average, Commerce has awarded a little over $400,000 in tax credit certificates annually under the program.

Location of Provisions in the Bill: Section 3 (pp. 141-144)

Analysis prepared by: Elizabeth J. Allison

Alter Property Tax Credits for Enterprise Zone and Regional Institution Strategic Enterprise Zone Property

Provisions in the Bill: Expand eligibility for the enhanced enterprise zone property tax credit for newly constructed qualified property that provides both office and retail space to include such property that became eligible for the property tax credit on or after July 1, 2018, and before January 1, 2019. Specify that certain business entities may concurrently claim the Regional Institution Strategic Enterprise (RISE) zone and enterprise zone property tax credits, provided that the total property tax credits in any taxable year may not exceed 100% of the property tax that would otherwise be due. Allow, subject to the approval of the local governing body and the Department of Commerce, the RISE zone property tax credit for the taxable year in which the real property initially becomes a qualified property (a similar authorization is available under the enterprise zone property tax credit under current law). Require, for qualified property located in a designated enterprise zone, focus area, or renewed RISE zone, the RISE zone property tax credit to be calculated based on the amount of property tax imposed on the eligible assessment *after* application of any enterprise zone property tax credits. Apply the provisions to taxable years beginning after June 30, 2025.

Agency: State Department of Assessments and Taxation; Commerce

State Effect: General fund expenditures for local property tax reimbursements increase by an indeterminate amount beginning in fiscal 2027 to the extent additional properties become eligible for and claim enhanced enterprise zone property tax credits. State revenues are not affected.

Local Effect: The provisions' overall net effect on local property tax revenues cannot be reliably estimated at this time. However, the potential local revenue effects of each provision are discussed below. Local expenditures are not affected.

Expanded Eligibility for Enhanced Enterprise Zone Property Tax Credit: Local property tax revenues decrease by an indeterminate amount beginning in fiscal 2026 to the extent additional properties become eligible for and claim enhanced enterprise zone property tax credits. Beginning in fiscal 2027, revenue losses are partially offset by State reimbursements.

Concurrent Utilization of RISE and Enterprise Zone Property Tax Credits: It is assumed, for purposes of this analysis, that the provision expressly authorizing concurrent utilization of the RISE zone and enterprise zone property tax credits simply clarifies legislative intent and does not directly affect local property tax revenues. The Department of Legislative Services (DLS) has historically assumed that a business entity may claim both the RISE zone and enterprise zone property tax credits if the eligible real property is located in both a RISE zone and an enterprise zone. However, as noted in DLS's 2019 *Evaluation of the Regional Institution Strategic Enterprise Tax Credit*, the RISE zone property tax credit's interaction with the enterprise zone property tax credit is unclear.

The provisions further specify that the RISE zone property tax credit is to be calculated based on the amount of the property tax imposed *after* the application of any enterprise zone property tax credits. Under current law, the credit is calculated based on the amount of property tax imposed on the eligible assessment *without reduction* for any other statewide mandatory property tax credits. Thus, it is assumed that the provisions limit the value of the RISE zone property tax credit for qualified properties with respect to which the enterprise zone property tax credit is concurrently claimed – and consequently mitigate local property tax revenue losses associated with the RISE zone property tax credit program in such instances.

Accelerated Application of RISE Zone Property Tax Credit: Local property tax revenues are affected – potentially significantly in a given year – by the allowance of the RISE zone property tax credit in the taxable year in which the real property initially becomes a qualified property, to the extent the authorization accelerates credits claimed against the local property tax.

Program Description: Qualified properties located in designated enterprise zones and RISE zones are eligible for certain local property tax benefits as detailed below.

Enterprise Zone Property Tax Credit: "Qualified property," as it applies to the enterprise zone property tax credit, is defined as real property that is not used for residential purposes; is used in a trade or business by a business entity that meets specified program requirements; and is located in an enterprise zone. The State must reimburse local governments for 50% of the property tax credit as provided in the State budget.

A local governing body must grant the credit against the property tax imposed on the eligible assessment (as defined) of the qualified property. In general, the credit is equal to the following percentage of the amount of property tax imposed on the eligible assessment: 80% in each of the first 5 taxable years following the calendar year in which the property initially becomes a qualified property; 70% in the 6th taxable year; 60% in the 7th taxable year; 50% in the 8th taxable year; 40% in the 9th taxable year; and 30% in the 10th taxable year.

Chapters 449 and 450 of 2022 authorized enhanced enterprise zone property tax credits for newly constructed qualified property that provides both office and retail space and became eligible for the property tax credit on or after January 1, 2019, but before January 1, 2022. The enhanced credit is equal to the following percentage of the amount of property tax imposed on the eligible assessment: 80% in each of the first 8 taxable years following the calendar year in which the property initially becomes a qualified property; 70% in the 9th taxable year; 60% in the 10th taxable year; 50% in the 11th taxable year; 40% in the 12th taxable year; and 30% in the 13th taxable year.

RISE Zone Property Tax Credit: "Qualified property," as it applies to the RISE zone property tax credit, is defined as real property that is located in a RISE zone, is not used for residential purposes, and is used in a trade or business by a business entity that locates in the RISE zone before January 1, 2023.

A local governing body must grant the credit against the property tax imposed on the eligible assessment (as defined) of the qualified property. The credit is calculated based on the amount of property tax imposed on the eligible assessment without reduction for any other statewide mandatory property tax credits. In general, the credit is equal to at least 50% of the property tax imposed on the eligible assessment for the first taxable year following the calendar year in which the property initially becomes a qualified property and at least 10% of the property tax imposed on the eligible assessment in each of the following four taxable years. If a RISE zone is renewed, the credit is equal to at least 10% of the amount of property tax imposed on the eligible assessment for the sixth through tenth taxable years.

Certain enhanced credits are available for qualified property located in an enterprise zone or focus area. For qualified property located in an enterprise zone, the credit is equal to 80% of the amount of property tax imposed on the eligible assessment for each of the five taxable years following the calendar year in which the property initially becomes a qualified property. For qualified property located in a focus area, the credit is equal to 100% of the amount of property tax imposed on the eligible assessment for each of the five taxable years following the calendar year in which the property initially becomes a qualified property.

Location of Provisions in the Bill: Section 4 (pp. 144-148)

Analysis prepared by: Elizabeth J. Allison

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Economic Development - Delivering Economic Competitiveness and Advancing Development Efforts (DECADE) Act

BILL NUMBER: SB 427

PREPARED BY: Brad Fallon

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

The DECADE Act makes alterations to programs business development programs, particularly those that meet the standards to be considered small businesses based on the number of workers they employ. The alterations to each program seek to increase their utility, usefulness, and accessibility to businesses in order to make Maryland's economy more resilient.

The programs in the bill will collectively direct hundreds of millions of dollars to qualified businesses to help expand their access to capital and to leverage state resources for business attraction, expansion, and retention efforts.