Evaluation of the One Maryland Economic Development Tax Credit



Department of Legislative Services 2022

Evaluation of the One Maryland Economic Development Tax Credit

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Department of Legislative Services
Office of Policy Analysis
Maryland General Assembly

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

December 2022

The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates
Members of the General Assembly

Dear President Ferguson, Speaker Jones, and Members:

As you know, the Tax Expenditure Evaluation Act (formerly the Tax Credit Evaluation Act) establishes a legislative process for evaluating certain tax credits, exemptions, and preferences. The Tax Credit Evaluation Act required a reevaluation of the One Maryland economic development tax credit by July 1, 2021.

The Department of Legislative Services (DLS) has conducted its reevaluation of the program and makes several findings and recommendations about the tax credit. The document is divided into six chapters.

Chapter 1 provides an overview of the Tax Credit Evaluation Act and the One Maryland tax credit.

Chapter 2 provides an overview of the program's legislative history.

Chapter 3 discusses the State costs of the tax credit.

Chapter 4 provides updated information on tax credit activity.

Chapter 5 discusses implementation issues and the effectiveness of the tax credit program.

Chapter 6 summarizes the findings of the report and discusses recommended changes to the tax credit program.

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We wish to acknowledge the cooperation and assistance provided by the Department of Commerce. DLS trusts that this report will be useful to members of the General Assembly in future deliberations about the One Maryland economic development tax credit.

Sincerely,

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

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Contents

Executive Summary

Since the mid-1990s, the number of State business tax credits has grown significantly as have related concerns about the actual benefits and costs of many of these credits. Although tax credits comprise a small percentage of total income tax revenues, the number and amount of credits claimed have significantly increased over time.

In response to concerns about the fiscal impact of tax credits on State finances, Chapters 568 and 569 of 2012, the Tax Credit Evaluation Act, established a legislative process for evaluating certain tax credits. The evaluation process was conducted by a legislative evaluation committee that is appointed jointly by the President of the Senate and the Speaker of the House of Delegates. Chapter 582 of 2016 subsequently amended the requirements of the committee and the evaluation process. The One Maryland Tax Credit Program was first evaluated July 1, 2014, and reevaluated July 1, 2021.

The One Maryland Tax Credit Program was established in 1999 to assist businesses with the costs of economic development projects undertaken in qualified economically distressed counties and, specifically, to encourage capital investment and job creation in those counties. The tax credit is a high value, low utilization tax credit. As of May 2020, a total of 79 projects have been awarded $305.1 million in tax credits. On average, in each year, 4 projects are awarded $15.8 million in credits or about $3.9 million for each project.

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 by a business located within a certain federal opportunity zone. Tax credits can be carried forward up to 10 tax years and are partially refundable beginning in the fifth tax year.

Since the 2014 evaluation of the One Maryland Tax Credit Program, there have been several recent developments. Chapters 583 and 584 of 2018 altered the program with the intent of simplifying the process of claiming and administering the credit and expanding geographic eligibility. These changes included altering the credit's value and process for claiming the credit. Given the Act's recent enactment, its long-term impact is unknown. Subsequent federal and State legislation, which include the More Jobs for Marylanders Program, the federal Qualified Opportunity Zones Program, and the Opportunity Zone Enhancement Program, increased the number of place-based programs with similar objectives.

Additionally, the Office of Legislative Audits (OLA) of the Department of Legislative Services (DLS) conducted a fiscal compliance audit of the Department of Commerce (Commerce) for the period beginning July 1, 2014, and ending December 18, 2017. OLA found that Commerce had not established effective procedures to verify that One Maryland tax credit applicants accurately reported new positions created as required before issuing a tax credit certificate.

DLS makes several findings and recommendations related to the One Maryland tax credit, as follows.

Program Overlaps with Other Tax Credit Programs

The State and federal government have a number of similar tax incentive programs that aim to promote economic development and job creation within economically distressed areas.

Recommendation: Given the overlap of the One Maryland Tax Credit Program with other similar tax incentive programs, DLS recommends that the General Assembly require Commerce and the Maryland Department of Labor to submit a report on consolidating or eliminating several State tax credits: One Maryland; enterprise zone; More Jobs for Marylanders; businesses that create new jobs; and the Opportunity Zone Enhancement Program.

The Future Fiscal Impact of the Credit Remains Uncertain

Several factors continue to contribute to the program's fiscal uncertainty. Commerce may award an unlimited amount of credits in each year; companies typically receive a large tax credit that is claimed over multiple years; the value of the tax credit is determined upon project certification but the amount claimed in each year is less predictable compared to other multi-year State tax credit programs; and there is insufficient data on the tax credit claimed in each year relative to the credit awarded.

Recommendation: DLS recommends that the annual amount of credits that may be certified by Commerce be made subject to an annual State budget appropriation.

Recommendation: Commerce should comment on how to redesign the One Maryland tax credit so that it is calculated in each of the qualifying years of the project, similar to other multi-year tax credits, thereby making annual credit costs more predictable.

Recommendation: DLS recommends that statutory changes be made to require Commerce to report terminated projects to DLS and the Comptroller's Office, which will clarify State liabilities.

Data Limitations on Tax Credits Persist

The Comptroller's Office advises that it is not able to efficiently and routinely identify and report the types of credits being carried forward by companies claiming tax credits, including the One Maryland tax credit. Additionally, other data limitations exist with the One Maryland Tax Credit Program.

Recommendation: The General Assembly should consider making statutory changes that specify the treatment of tax credit carry forwards if the company has multiple tax credits. The General Assembly should require the Comptroller to report tax credit carry forwards for each tax credit.

Recommendation: Commerce should issue a project identification number to each certified project, and the project identification number should be reported

when claiming the tax credit and credit carry forwards.

Recommendation: Given the General Assembly's interest in small businesses, Commerce should require businesses to report the total employment and the number of employees employed in the State for each year that they claim the credit.

Recommendation: The Maryland Insurance Administration should provide detailed information to DLS and the Comptroller's Office about each company that has been certified for a credit, including the total amount of credit each company is eligible to claim.

2018 Legislation Likely Had a Modest Impact on the Program

Chapters 583 and 584 made significant changes to the One Maryland Tax Credit Program with the intent of simplifying the process of claiming and administering the credit and expanding geographic eligibility. Given its recent enactment and lack of data, the long-term impact is unknown; however, DLS examined available data and determined any improvements are modest, at best.

Recommendation: Commerce should comment on how the 2018 legislation has affected the program, particularly in regard to the lack of small business activity and the failure of the credit to generate activity on much of the Eastern Shore.

One Maryland Tax Credit Continues to Have Significant Cliff Effects

The 2014 DLS evaluation of the One Maryland tax credit found that the design of the tax credit led to significant cliff effects between companies with similar projects that did and did not qualify for the credit, which lead to significant variation in the reported creation of jobs, wages paid, and cost effectiveness among projects. After Chapters 583 and 584, the current credit only provides marginal incentives and continues to have significant cliff effects. From the perspective of the State, these cliff effects also produce inconsistent incentives for each job reported, contributing to continued variation in the program's benefits and costs.

Recommendation: Commerce should comment on how to redesign the tax credit to avoid significant cliff effects.

Chapter 1. Overview of the Tax Credit Evaluation And the One Maryland Program

Tax Credit Evaluation Act

Since the mid-1990s, the number of State business tax credits has grown exponentially as have related concerns about the actual benefits and costs of many of these credits. In response to concerns about the impacts of certain tax credits, Chapters 568 and 569 of 2012 established the Tax Credit Evaluation Act, a legislative process for evaluating certain tax credits. The evaluation process is conducted by a legislative evaluation committee and must be done in consultation with the Comptroller's Office, the Department of Budget and Management, the Department of Legislative Services (DLS), and the agency that administers each tax credit. The committee is appointed jointly by the President of the Senate and the Speaker of the House of Delegates and must include at least one member of the Senate Budget and Taxation Committee and one member of the House Ways and Means Committee. Chapter 582 of 2016 subsequently amended the requirements of the committee and evaluation process.

The Act required the committee to evaluate specified tax credits by July 1 of each year. In the year prior to the required evaluation date, DLS must publish an evaluation of a tax credit by November 15, and the evaluation committee must hold a public hearing on the evaluation report by December 31.

The committee has reviewed the following credits: enterprise zone; One Maryland; earned income; film production activity; historic revitalization; businesses that create new jobs; job creation; research and development; biotechnology investment incentive; and Regional Institution Strategic Enterprise Zone. The committee evaluated the One Maryland and enterprise tax credit programs on July 1, 2014, and is required to reevaluate the programs by July 1, 2021. Accordingly, this report is a reevaluation of the 2014 evaluation published by DLS.

One Maryland Tax Credit Program

The One Maryland Tax Credit Program was established in 1999 in order to assist businesses with the costs of economic development projects undertaken in qualified economically distressed counties and, specifically, to encourage capital investment and job creation in those counties. The tax credit is a high value, low utilization tax credit. As of May 2020, a total of 79 projects have been awarded $305.1 million in tax credits. On average, in each year, 4 projects are awarded $15.8 million in credits, or about $3.9 million for each project.

A business that establishes or expands a facility located within certain counties that are considered economically distressed can claim an income tax credit of up to $5.5 million. The eligible project must create at least 10 jobs and result in $500,000 in capital investments.

The expanded or new business facility must generally be (1) located within a priority funding area or a federal opportunity zone located within Allegany, Garrett, Somerset, or Wicomico counties and (2) primarily be engaged in nine industries, research and development, or the operation of certain central offices 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 (at least 10 qualified positions). A tax credit of up to $5.5 million can be claimed by a business located within a federal opportunity zone. Tax credits can be carried forward up to 10 tax years and are partially refundable beginning in the fifth tax year.

Overview of the 2014 One Maryland Tax Credit Evaluation

In an effort to better understand the fiscal impacts and effectiveness of the credit, the 2014 *Evaluation of the One Maryland Economic Development Tax Credit* report provides an overview of the One Maryland tax credit, how the credit is claimed, the annual amount of credits claimed, the geographic distribution of credits, the economic impacts of the credit, and the current and potential future costs of the credit. DLS made several recommendations as to how the effectiveness of the One Maryland tax credit might be improved in the 2014 report.

Issues highlighted in the report included:

- ***Uncertain Fiscal Costs:*** Unlike most tax credit programs, the One Maryland Tax Credit Program does not have a limitation on the amount of tax credits that may be awarded or other component that limits its cost. Further, the high-value tax credit is typically claimed over a number of tax years. A lack of reporting information creates uncertainty over the program's fiscal impact and potential build-up of State tax credit liabilities.

- ***Credit Complexity:*** The process of claiming the tax credit is complex and administratively difficult. A number of factors, some of which were difficult to calculate, determined how much of the tax credit could be claimed in each year.

- ***Variation in Credit Effectiveness:*** An examination of reported project outcomes at the time of certification showed significant variation in the creation of jobs, wages paid, and cost effectiveness among projects. In addition, many companies claiming the One Maryland tax credit also receive additional federal, State, and local financial assistance, further diluting credit effectiveness.

Recent Developments

2018 Legislation Altered the Program

Chapters 583 and 584 of 2018 altered the program with the intent of simplifying the process of claiming and administering the credit and maintaining geographic eligibility. These changes included altering the credit's value and process for claiming the credit. Given the recent enactment, the long-term impact of the Acts is unknown. However, this report examines some of the potential impacts.

Additional Tax Incentive Programs with Similar Objectives Have Been Enacted

The State and federal government have a number of similar tax incentive programs that aim to promote economic development and job creation within economically distressed areas. At the time of the 2014 evaluation, federal programs included empowerment zones, U.S. Economic Development Administration finance programs, and the new markets tax credit. State programs included the enterprise zone program; the Department of Commerce (Commerce) administered finance programs that target economically distressed areas and other tax credit programs, such as the job creation tax credit, that provide enhanced tax credits within distressed areas. In addition, the businesses that create new jobs tax credit provides tax credits for businesses that establish or expand a business facility in certain counties.

Subsequent federal and State legislation increased the number of place-based programs with similar objectives. Chapter 149 of 2017 established the More Jobs for Marylanders Program, which as originally enacted aimed to support manufacturing statewide as well as specifically within certain designated counties. The features of the income tax credit are similar to the One Maryland tax credit. The federal Tax Cuts and Jobs Act of 2017 established the Qualified Opportunity Zones Program to incentivize private investment in certain economically distressed communities. Chapter 211 of 2019 established the Opportunity Zone Enhancement Program, which provides enhanced State tax credits and economic development incentives for qualifying businesses within these federal opportunity zones.

Recent Legislative Audit Findings

The Office of Legislative Audits (OLA) of DLS conducted a fiscal compliance audit of Commerce for the period beginning July 1, 2014, and ending December 18, 2017. OLA found that Commerce had not established effective procedures to verify that One Maryland tax credit applicants accurately reported new positions created, as required, before issuing a tax credit certificate. These findings, along with the findings of the 2014 *One Maryland Tax Credit Evaluation*, are addressed further in Chapter 5 of this report.

Chapter 2. Program Eligibility and Legislative History

One Maryland Tax Credit Program

Eligibility

Chapter 303 of 1999 established the One Maryland Economic Development Tax Credit Program to assist certain businesses that establish or expand a facility located within economically distressed counties (Tier 1 county). To qualify, a business must be primarily engaged in a qualifying activity or operate either a central administrative office or a company headquarters (other than the headquarters of a professional sports team). The eligible project must be located in a priority funding area (PFA). In Allegany, Garrett, Somerset, and Wicomico counties, a project may also be located within a federal opportunity zone. In addition, the project must create at least 10 jobs and result in at least $500,000 of capital expenditures. The jobs must be filled for at least 12 months, be full-time, and pay 120% of the State minimum wage.

To qualify as a Tier I county, a county must have:

- an average unemployment rate that exceeded the State's average during the preceding 24-month period by either 2 percentage points or 150%; or

- a median household income that may not exceed 75% of the State's average during the preceding 24-month period.

A Tier I county also includes any county that no longer meets the unemployment and median household income criteria but has met at least one of the criteria at some point in the preceding 24-month period. As of September 2020, the following jurisdictions are considered a Tier I county: Allegany; Caroline; Dorchester; Garrett; Kent; Somerset; Washington; Wicomico; and Worcester counties and Baltimore City.

PFAs include State enterprise zones, federal empowerment zones, Department of Housing and Community Development designated neighborhoods, incorporated municipalities, the areas between the I-495 beltway and Washington, DC and the I-695 beltway and Baltimore City, and growth areas designated by each county.

Credit Value

The tax credit is the lesser of 100% of eligible project costs or $5 million. Businesses must create at least 50 qualified positions to claim the maximum amount of $5 million, and smaller projects may claim up to $2.5 million or $1.0 million in tax credits if the qualified business creates at least 25 or 10 qualified positions, respectively. Within eligible federal opportunity zones, an enhanced tax credit of up to $5.5 million may be claimed. A business may not also claim the job creation tax credit in the same tax year. Qualifying costs and expenses include those incurred with the acquisition, construction, rehabilitation, installation, and equipping of an eligible project. Eligible costs include land acquisition, performance and contract bonds, insurance, architectural and engineering services, environmental mitigation, and utility installation.

In each year, a business can claim the value of the credit, less any amount claimed in prior years, up to the State income tax liability of the business for the taxable year. Credits may be carried forward to up to 10 successive tax years and are partially refundable beginning in the fifth credit year. To carry forward a tax credit from the preceding year, the business entity must have maintained, for at least 5 years, the minimum number of qualified positions required to qualify for the credit (50 qualified positions for $5 million, 25 for $2.5 million, or 10 for $1 million). If, after 5 years, the number of positions falls below the minimum of 50 or 25 (but not below 10), the business may claim a prorated share of the credit. **Exhibit 2.1** illustrates the credit value based on the number of qualified positions and whether the project is located within a federal opportunity zone.

Exhibit 2.1
One Maryland Credit by Qualified Positions
($ in Millions)

Qualified Positions	Maximum Credit
10 to 24	$1.0
25 to 49	2.5
50 or Greater	
Base Credit	5.0
Enhanced Credit*	5.5

*Must be located within a federal opportunity zone in Allegany, Garrett, Somerset, or Wicomico counties.

Source: Department of Legislative Services

The Department of Commerce (Commerce) administers the tax credit application, approval, and certification process and is required to submit an annual report to the Governor and General Assembly detailing specified information about the tax credit. A business entity must be certified before the entity is eligible to claim the credit. The business may not be certified unless it notifies Commerce of its intent to seek certification before hiring any qualified new employees.

Legislative Changes

As previously indicated, Chapter 303 established the One Maryland Tax Credit Program by creating a tax credit against the State tax on income attributable to a certified economic development project in a "qualified distressed county". As originally enacted, the tax credit was based on start-up costs related to a new facility (equal to the lesser of $500,000 or $10,000 multiplied by the number of new employees) and project costs (up to $5 million) related to a new or expanded facility. The business was required to add at least 25 qualified employees to be eligible for the credit.

In 2001, Chapter 729:

- clarified that tax-exempt organizations are eligible for the credit;
- allowed individuals and corporations without a tax liability to file an income tax return to claim the credit; and
- allowed a person subject to the insurance premiums tax to claim the credit.

Chapter 498 of 2008 increased from 18 months to 24 months the time period by which a county's average unemployment rate is determined. This change was enacted largely to eliminate the impact of seasonal labor and cyclical unemployment patterns. The 18-month measuring period alternates between either a measuring period that consists of two summer seasons (low unemployment levels) or two winter seasons (high unemployment levels). Increasing the measuring period to 24 months more accurately measures the unemployment rate.

Chapter 498 also provided an exception to the designation of a distressed county by specifying that a distressed county includes any county that no longer meets the unemployment and personal income criteria but has met at least one of the criteria at some point in the preceding 12-month period. Chapter 303 of 2011 extended this period to 24 months.

Chapter 715 of 2012 altered the definition of qualified distressed county to include counties with unemployment rates at least two percentage points higher than the State average. The Act also authorized qualified business entities to claim a prorated share of the One Maryland tax credits in specified circumstances.

Chapters 583 and 584 of 2018 made the following changes with the intent of simplifying the process of claiming and administering the credit and expanding geographic eligibility:

- increased the minimum amount required to be paid for a qualifying position from 150% of the federal minimum wage to 120% of the State minimum wage;
- eliminated the $500,000 start-up tax credit;

- established a tiered structure for project tax credits based on the number of qualifying positions, requiring a business to create 50 (instead of 25) qualified positions to claim the maximum amount of $5 million, and at least 25 or 10 positions to claim the maximum amount of $2.5 million or $1.0 million, respectively;

- authorized the tax credits to be claimed against the entirety of the income of the business, rather than solely the income attributable to the One Maryland project;

- reduced from 14 years to 10 years the number of years tax credits may be carried forward;

- expanded geographic eligibility by modifying the income-based standard for qualification from no more than 67% of statewide average per capita personal income to no more than 75% of statewide median household income;

- replaced the term “qualified distressed county” with “Tier I County”; and

- required a qualified business entity to report the amount of the project tax credit that it claims each year to Commerce or else be disqualified from claiming any unclaimed amount of the credit.

The changes applied to projects certified beginning on July 1, 2018.

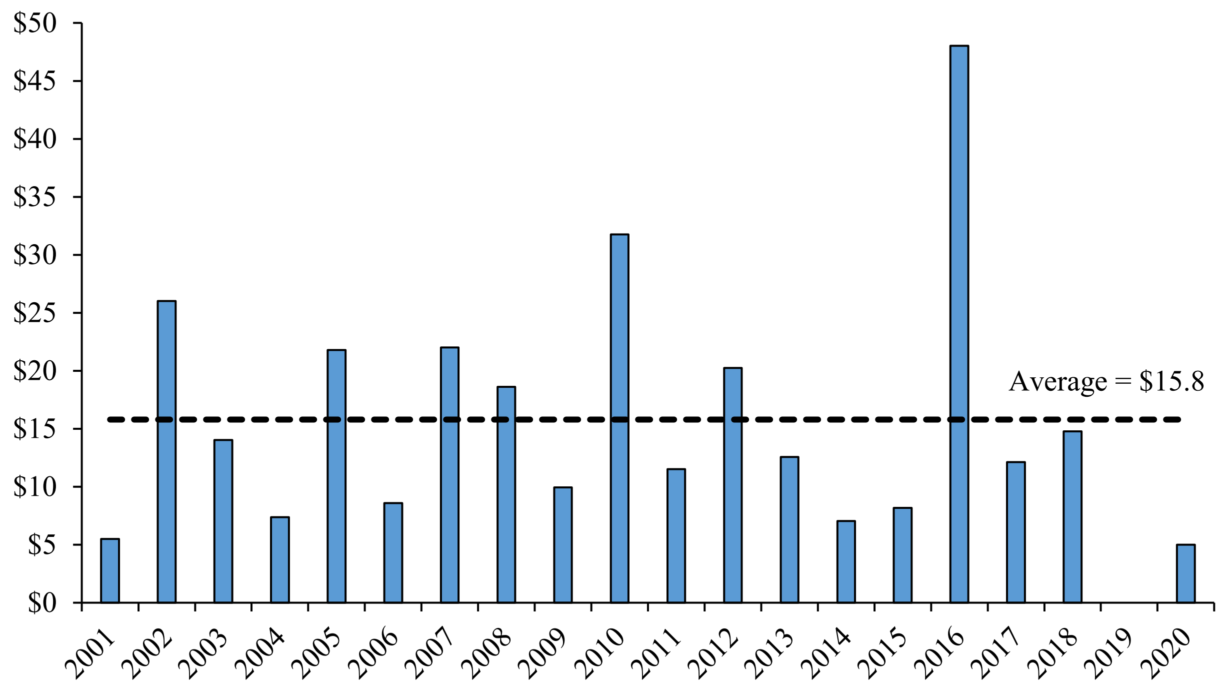
Finally, Chapter 211 of 2019 increased the maximum tax credit to $5.5 million if the business meets program requirements and the project is located within a qualified opportunity zone in Allegany, Garrett, Somerset, or Wicomico counties.

Chapter 3. Program Fiscal Impact

Annual Amount of Credits Certified

The Department of Commerce (Commerce) certifies projects that have met the qualifications of the program and the credit amount that the business can claim. As of May 2020, Commerce has certified 79 projects that have been awarded a total of $305.1 million in credits. **Exhibit 3.1** shows the total amount of credits certified each year, and **Appendix 1** provides further details on the total number of projects and average credit claimed.

Exhibit 3.1
One Maryland Tax Credits Certified
Calendar 2001-2020
($ in Millions)



Note: Calendar 2020 is through May 2020.

Source: Department of Commerce; Department of Legislative Services

Credit activity is not consistent and fluctuates from year to year – in approximately the same number of years, the annual amount of credits certified has been $10.0 million or less, between $10.0 million and $20.0 million, or $20.0 million or greater. In calendar 2016, Commerce certified $48.0 million in tax credits but none in calendar 2019. On average, Commerce certifies four projects each year that are awarded $15.8 million in credits.

Magnitude of Credits Certified

The typical One Maryland project has been awarded a credit of $4.8 million, with more than two-thirds of all projects earning a credit of more than $5.0 million. Only 8 projects were awarded a credit of less than $1.0 million, with a minimum credit of $500,000. The amount of jobs certified by Commerce ranged from a minimum of 19 jobs to a maximum of 249 jobs with the typical project reporting 43 certified jobs. Commerce certified 12 projects that reported creating 100 or more jobs. **Exhibit 3.2** shows the distribution of credits by the amount of credit received by the project and the median number of jobs reported for those projects.

Exhibit 3.2
One Maryland Project Credits and Jobs
Calendar 2001-2020

		Credits		Certified Jobs	
Credit Amount	**Projects**	**Total**	**% Total**	**Median Number**	**% Total**
Less than $1 Million	8	$4,979,508	1.6%	28	5.1%
$1 Million to $3 Million	22	46,083,567	15.1%	44	26.4%
$3 Million to $5 Million	11	46,071,452	15.1%	48	13.9%
Over $5 Million	38	207,962,000	68.2%	49	54.6%
Total	**79**	**$305,096,527**	**100.0%**	**43**	**100.0%**

Note: Calendar 2020 data is through May 2020

Source: Department of Commerce; Department of Legislative Services

2014 Evaluation Found the Program Lacked Sufficient Fiscal Controls

Once a business receives certification, it can begin claiming the credit in the qualifying tax year, thus resulting in a decrease in State revenues. The credit is typically claimed over multiple tax years with some companies claiming large amounts, while others have yet to claim any credits. As a result, the actual State revenue loss in each year is unknown and is likely significantly different than the amount of credits certified in each year as shown in Exhibit 3.1.

The 2014 Department of Legislative Services (DLS) evaluation of the One Maryland Tax Credit Program determined only about one-third of all credits had been claimed to date, thus creating a large pipeline of unclaimed credits. As the amount of credits claimed has continue to lag behind the total amount certified, the magnitude or "pipeline" of unclaimed credits has increased. Over time, the amount of tax credits that can be claimed may also increase as a greater number of companies are claiming the credit in the latter years in which the tax credit is partially refundable. Based on data from Commerce and the Comptroller's Office, DLS estimated that the potential unclaimed credit pipeline increased from about $40 million in calendar 2005 to between $104 million and $136 million in calendar 2012. Since the program is not subject to an annual aggregate limitation, the amount of credits that will be certified and claimed in each year cannot be accurately predicted.

2018 Legislation Likely Had a Modest Impact on Fiscal Uncertainty and Credit Complexity

Chapters 583 and 584 of 2018 enacted significant changes to the One Maryland Tax Credit Program. These changes included (1) eliminating the start-up tax credit; (2) reducing the time period in which tax credits may be carried forward from 14 years to 10 years; and (3) authorizing the tax credits to be claimed against the entirety of the income of the business rather than solely the income attributable to the One Maryland project.

The Acts reduced some of the tax credit's complexity and fiscal uncertainty. However, there is insufficient data to analyze the impact given its recent enactment, which applied to projects certified beginning on July 1, 2018, as Commerce has certified only three projects since this date. It is not clear if the decreased credit activity reflects the impact of the Acts or fluctuations in credit activity over time.

Although the full impact of the Acts is unknown, several factors continue to contribute to the program's fiscal uncertainty:

- Commerce may award an unlimited amount of credits in each year;
- companies typically receive a large tax credit that is claimed over multiple years;
- the value of the tax credit is determined upon project certification, but the amount claimed in each year is less predictable compared to other multi-year State tax credit programs; and
- there is insufficient data on the amount of tax credits claimed in each year relative to the amount of credits awarded.

As a result, DLS remains unable to estimate the fiscal impact of the program in each year. In addition, there is a possibility that the program's fiscal cost could increase significantly.

Chapters 583 and 584 also require a qualified business to report to Commerce the amount of the One Maryland tax credit that the business claimed on its tax return for each taxable year that the business claims any portion of the tax credit. Failure to report to Commerce disqualifies the business from claiming any unclaimed amount of the tax credit. This new reporting requirement may provide greater insight on credits actually claimed over time. However, these requirements apply only to companies certified after July 1, 2018; and, according to Commerce, the data is not aggregated and/or shared with the Comptroller in order to fully inform the difference between credits awarded and claimed on tax returns.

Credit Calculation Amplifies Fiscal Uncertainty

The amount of the tax credit that can be claimed in each year is based on specific calculations, including the amount of withholding taxes paid by qualifying employees working at the project and the net taxable income of the business. Due to the variation in these factors, a project's expected revenue loss in each year cannot be accurately predicted.

The tax credit value is equal to the amount of the project's qualifying costs, subject to specified maximums based on the number of qualified jobs. However, the amount of tax credit that can be claimed in each year is determined by the State tax liability of the company imposed in the year and also, beginning in year five, the wages paid to the qualified positions. The amount of the tax credit that can be claimed in the first four tax years is limited to the State income tax liability imposed in the year. Beginning in year five, the business can claim a tax credit against the tax liability imposed in the year plus a refund equal to the State payroll withholdings of the qualified positions. If the number of qualified positions falls below minimum thresholds, the credit is prorated as long as there remains at least 10 qualified positions.

In contrast, the value of other State business tax credits that can be claimed over multiple years is calculated not at the beginning of the project but by the administering agency in each of the qualifying years of the project. These tax credits include the More Jobs for Marylanders income tax credit, the enterprise zone tax credit, and the businesses that create new jobs tax credit. For example, the More Jobs for Marylanders income tax credit provides a similar tax credit that in each year is also based on a percentage of the wages paid to qualified positions. Thus, there is more information on the annual amounts claimed by each business.

Data Limitations on Tax Credits Claimed Persist

The Comptroller's Office advises that it is not able to efficiently and routinely identify and report the types of credits being carried forward by companies claiming tax credits, including the One Maryland tax credit. Other states, such as Indiana, assign a project identification number to the tax credit form. Having a project identification number can enable tax credit carry forwards from each project to be easily identifiable.

According to the Comptroller's Office, if a business is carrying forward more than one tax credit from a previous year, statute does not specify the order in which each tax credit is claimed. For example, if a business is carrying forward $1.0 million in research and development and $1.0 million in One Maryland tax credits but only has $500,000 in tax liability in the year, it is at the discretion of the taxpayer how much of each credit, if any, to claim. It is expected that a taxpayer first claims the tax credit that has the greatest likelihood of expiring before the full amount may be used. When the Comptroller's Office calculates the total amount of tax credits claimed, it typically can only report the value of the tax credit claimed in the first year. In each year, the total amount of tax credits carried forward from previous tax years are only reported in the aggregate, so it is not possible to identify One Maryland carry forwards from other tax credit carry forwards.

Unlike Most State Business Tax Credit Programs, One Maryland Continues to Lack Fiscal Certainty

The One Maryland Tax Credit Program is an outlier compared to other business tax credit programs in that it does not have a limitation on the amount of credits that can be awarded. Of the 32 current or recently expired tax credits examined by DLS, 23 have either an aggregate limitation on the amount of tax credits that can be awarded – in all but one case an annual limitation – or are subject to a budget appropriation. Further, all of the significant business tax credits shown in **Exhibit 3.3** except the One Maryland tax credit have either form of limitation.

Exhibit 3.3
Funding Requirements – Major Business Tax Credit Programs

Aggregate Limitation	Budget Appropriation	No Limitation
AEDC	Biotechnology Investment Incentive	One Maryland
Cybersecurity-Purchase	Cybersecurity-Investment	
Employer Security Clearance	Enterprise Zone- Property Tax	
Film Production Activity	More Jobs for Maryland	
Job Creation	Historic Revitalization	
Maryland-mined Coal		
InvestMaryland		
Community Investment		
Paid Sick Leave		
Research and Development		

AEDC: Aerospace, Electronics, or Defense Contract Tax Credit

Note: Includes tax credits with an average annual fiscal impact of $1.0 million or greater.

Source: Comptroller's Office; Department of Commerce; State Department of Assessments and Taxation; Department of Legislative Services;

As discussed in the evaluation of the More Jobs for Marylanders Program and reevaluation of the enterprise zone program, the efficacy of the budget appropriations for these programs in providing fiscal certainty falls short of the other programs that have an aggregate limitation. These reports also include recommendations for providing greater fiscal certainty for these programs.

Historic Revitalization Tax Credit Remains a Model for Fiscal Certainty and Competitive Awarding

The commercial tax credit of the historic revitalization tax credit shares some similarities with the One Maryland tax credit – higher value tax credits that in many cases are claimed over a number of years after being awarded. The General Assembly has over time enacted significant reforms to the tax credit for the restoration of historic properties, which was previously known as the historic rehabilitation tax credit and sustainable communities tax credit. In September 2001, DLS found that the fiscal costs resulting from the tax credit program exceeded the amounts previously reported by the administering agency. Thus, between 2002 and 2004, the General Assembly made a number of legislative reforms to the tax credit that would decrease the growing fiscal costs of the program. The major components of these fiscal reforms include:

- shifting the commercial program from a traditional tax credit to a budgeted tax credit subject to an aggregate limit each year;
- limiting the maximum value of the commercial tax credit to $3 million, which was previously uncapped; and
- reducing the percentage value of the credit from 25% to 20%.

The legislative reforms improved the program's implementation and administration so that the commercial tax credit program has become a template for subsequent tax credits established by the General Assembly. These reforms established a well-structured commercial tax credit program that provides fiscal certainty, prevents the buildup of unfunded State liabilities, and clarifies State liabilities in each fiscal year. The commercial program is also subject to a competitive process that generally maximizes the program's effectiveness compared to an uncapped program or first-come, first-served approach. The legislative reforms also generally prohibited rehabilitation projects from receiving other State and local financial assistance, further increasing the effectiveness of the program. Legislation also clarified the treatment of expired tax credits – as a result, the Maryland Historical Trust regularly communicates to DLS and the Comptroller's Office the tax credits that have expired throughout the year. In the evaluation of the historic revitalization tax credit, DLS recommended that the General Assembly consider implementing competitive processes and comparable reporting requirements for other State tax credits, such as the One Maryland tax credit.

Chapter 4. Program Activity

Overview of Trends and Regional Variation

The 2014 Department of Legislative Services (DLS) evaluation of the One Maryland tax credit included information on the 54 projects receiving certification during calendar 2001 through 2012. This chapter provides updated information on the additional 25 projects certified from calendar 2013 through May 20, 2020. Given the impact of inflation over this time, one dollar in calendar 2001 is worth 45 cents in current dollars, so the information in this chapter is reported in constant dollars to control for the impact of inflation and more accurately reflect trends across the first and second time periods.

The updated program information shows that activity was less than typical in both calendar 2013 and 2014 before reaching a peak in calendar 2016. Activity was once again less than typical before slowing significantly within the last two years, as only three projects have been certified since the effective date of Chapters 583 and 584 of 2018. The Act's changes to the program included altering the credit value by generally creating a three-tiered tax credit based on the number of qualifying jobs reported. Businesses must create at least 50 qualified positions to claim the maximum amount of $5 million, and smaller projects may claim up to $2.5 million or $1.0 million in tax credits if the qualified business creates at least 25 or 10 qualified positions, respectively. Previously, a company was required to create at least 25 jobs. Only one company has qualified for the new, lower threshold of at least 10 qualified positions.

Regional variations persist across Baltimore City, Western Maryland, and the Eastern Shore. Baltimore City, at slightly more than 60%, remains the largest recipient of project assistance. Five Eastern Shore counties had at least one project through calendar 2012; however, program activity has continued only in Caroline County. In contrast, program activity has increased in Western Maryland and, in particular, Washington County, which, for the most part, did not previously qualify for the program. As a result, project activity has shifted away from the Eastern Shore to Western Maryland – since the 2014 evaluation, the Eastern Shore has received less than 10% of all credits compared to about one-third for Western Maryland. **Exhibit 4.1** compares program activity by region during these two time periods.

Exhibit 4.1
Credit Activity by Region
Calendar 2001-2020

	2001-2013	2014-2020*	Total
Program Activity			
Projects	54	25	79
Total Credits ($ in Millions)	$249.6	$114.9	$364.5
Percentage of Credits			
Baltimore City	61.8%	60.7%	61.5%
Eastern Shore	22.8%	8.6%	18.3%
Western Maryland	15.3%	30.7%	20.2%

Note: The amount of credits is adjusted for inflation and expressed in constant 2020 dollars. Calendar 2020 is through May 20, 2020.

Source: Department of Commerce; Department of Legislative Services

The 2014 DLS evaluation found that most of the companies located on the Eastern Shore and in Western Maryland were within the manufacturing and transportation/warehousing industries, while Baltimore City had a more diverse mix of industries. This pattern persists as all of the Eastern Shore projects have been either manufacturing or transportation/warehousing businesses. In addition, manufacturing projects continue to receive the largest share of credits in Western Maryland and recently accounted for one-half of credits. However, an increase in nonmanufacturing projects was a larger factor in the region's increased program activity.

Manufacturing in Baltimore City has remained steady and, since calendar 2012, has received about one-fifth of all credits. Activity in other industries has shifted from utilities and the finance and insurance industries to the professional, scientific, and technical services industries and the transportation and warehousing industries.

In total, business expansions comprise about two-thirds of all Maryland projects. However, most of the recent Baltimore projects are newly established (either new to the State or new companies). Average project spending across all projects has increased, thereby generating a greater average tax credit. About 70% of recent projects received a credit of $5.0 million or greater; however, the median jobs reported per project has fallen from 44 to about 36. Given the program's capital spending requirement, large multistate companies continue to receive the majority of all tax credits. Eight companies with more than one qualifying project comprise roughly one-third of all projects, reported jobs, and tax credits awarded. The Department of Commerce (Commerce) has awarded each company total tax credits of about $14 million.

Types of Businesses Receiving the Credit

To be eligible for the One Maryland tax credit, a business must establish or expand a business facility that is primarily engaged in one or more of the following activities: (1) manufacturing or mining; (2) transportation or communications; (3) filmmaking, a resort business, or a recreational business; (4) agriculture, forestry, or fishing; (5) research, development, or testing; (6) biotechnology; (7) computer programming, information technology, or other computer-related services; (8) central services for a business entity engaged in financial services, real estate services, or insurance services; (9) the operation of a public utility; (10) warehousing; or (11) other business services. In addition to these specific industries, a qualifying activity includes either the operation of central administrative offices or a company headquarters (other than the headquarters of a professional sports organization).

In order to determine whether a business facility is engaged in a qualifying activity, Commerce must use either the Standard Industrial Classification or North American Industrial Classification System. **Exhibit 4.2** shows the total amount of projects and credits by industry. Four industries – manufacturing (over one-third of all credits), finance and insurance (17%), transportation and warehousing (18%), and wholesale trade (13%) – account for over 80% of all credits certified by Commerce. The four industries with the most credits also reported creating almost three-quarters of the jobs, with manufacturing businesses reporting the highest number (1,238). Several industries' share of the total jobs reported is less than the share of total amount of credits awarded. For example, manufacturing projects comprised approximately one-quarter of all reported jobs, but the projects received over one-third of all credits. Conversely, utilities received 1.9% of all credits but reported 9.4% of all jobs.

Exhibit 4.2

One Maryland Projects by Industry

Calendar 2001-2020

Industry	Projects	Credits Awarded ($ in Millions)	Credits Awarded % Total	Reported Jobs Amount	Reported Jobs % Total
Accommodation and Food Services	1	$5.9	1.6%	73	1.6%
Finance and Insurance	10	63.8	17.5%	694	15.4%
Health Care and Social Assistance	1	2.7	0.8%	59	1.3%
Information	1	2.9	0.8%	65	1.4%
Manufacturing	26	125.8	34.5%	1,238	27.5%
Professional, Scientific, and Technical Services	6	23.5	6.4%	265	5.9%
Retail Trade	2	10.2	2.8%	142	3.1%
Services	3	8.5	2.3%	135	3.0%
Transportation and Warehousing	14	65.5	18.0%	709	15.7%
Utilities	3	6.8	1.9%	425	9.4%
Wholesale Trade	12	48.9	13.4%	704	15.6%
Total	**79**	**$364.5**	**100.0%**	**4,509**	**100.0%**

Note: The amount of credits is adjusted for inflation and expressed in constant 2020 dollars.

Source: Department of Commerce; Department of Legislative Services

Geographic Distribution of Credits

A county may qualify as a Tier I county if it meets specified criteria related to unemployment or median household income. An exception to this designation specifies that a Tier I county includes any county that no longer meets the unemployment or median household income criteria but has met at least one of the criteria at some point in the preceding 24-month period. As of September 2020, Tier I counties include Baltimore City and Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, and Worcester counties. Projects have been located in nine counties, including Cecil County, which is no longer eligible. While Kent and Wicomico counties were designated as a Tier I counties in July 2018, these counties do not have any projects that have filled qualifying positions for the required time period. The full impact of the changes enacted by Chapters 583 and 584 – to geographic eligibility, pay requirements, and credit values – cannot not be assessed given only three projects have been certified since the Act's changes became effective on July 1, 2018. However, several counties that were no longer eligible have once again become eligible (Caroline, Dorchester, Garrett, Somerset, Washington, and Worcester counties).

Of the nine qualifying counties with at least 1 project to date, a total of 48 Baltimore City projects have received over 60% of the total credits. A total of between 3 to 7 projects have been located in Allegany, Caroline, Cecil, Dorchester, Garrett, and Washington counties, and 1 project has been located in each of Somerset and Worcester counties. **Exhibit 4.3** provides detailed program activity by county, including a comparison of the average wages for projects to the average wage in the county at the time. The average wages for projects were higher than the county's average annual pay in over half of the counties (Baltimore City and Cecil, Dorchester, Garrett, and Worcester counties), with the wages for projects in Worcester County almost double.

Since the program's inception, there has been little change in the qualifying counties. **Exhibit 4.4** illustrates the time periods in which counties have been designated as eligible counties.

Exhibit 4.3

One Maryland Projects, Credits, Jobs, and Average Wages Per County

County	Projects	Credits	Years Eligible	Total Jobs	Average Wages	County Average Wages
Allegany	6	$37,569,613	20	362	$34,606	$40,617
Baltimore City	48	224,094,556	19.8	2,787	80,626	69,060
Caroline	6	23,950,286	16.2	257	36,431	43,929
Cecil	4	26,739,753	1.5	454	56,108	50,602
Dorchester	3	8,987,871	16.4	128	43,725	41,673
Garrett	7	19,969,618	13.8	189	45,954	36,349
Somerset	1	671,951	16.0	31	30,473	48,103
Washington	3	15,989,347	4.1	276	40,737	44,984
Worcester	1	6,496,329	14.6	25	64,278	35,522
Total	**79**	**$364,469,323**		**4,509**	**$66,565**	**$63,457**

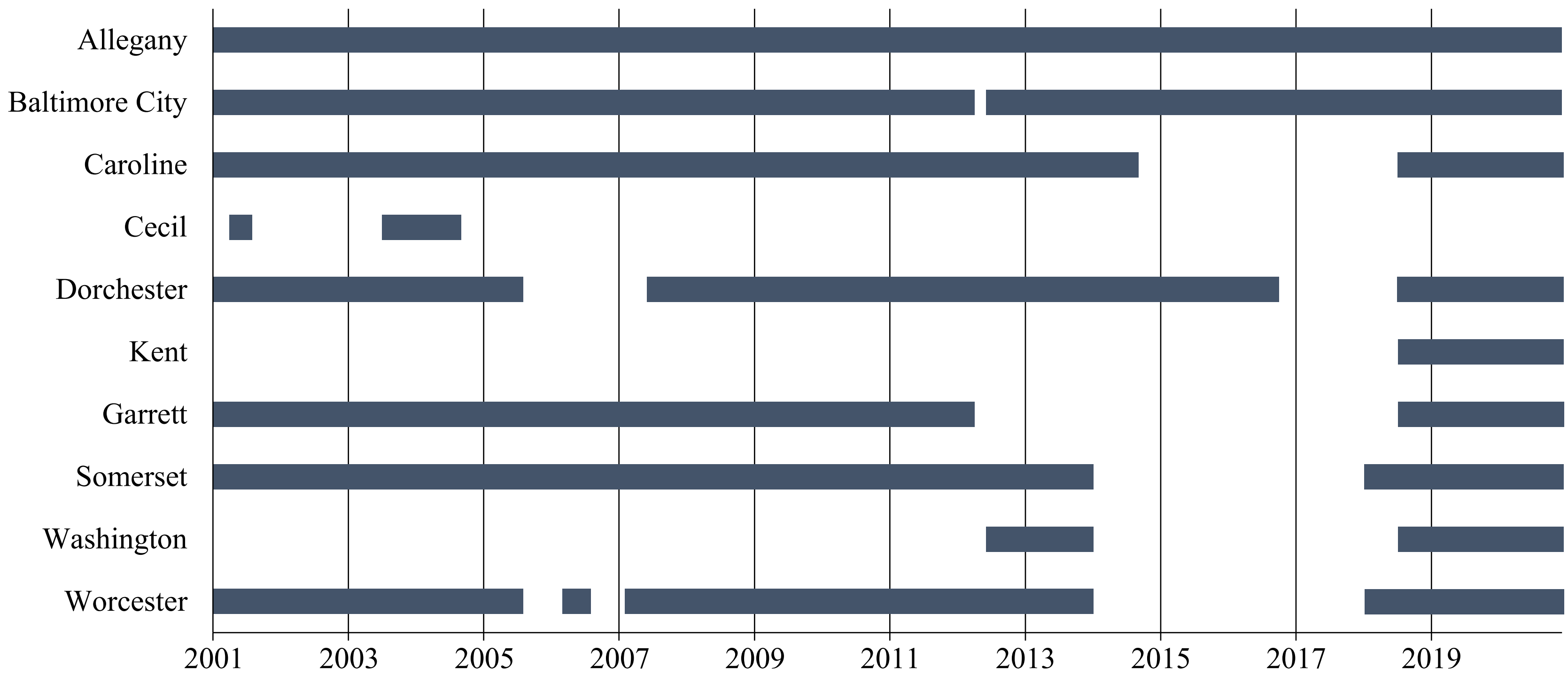
Note: Credits, wages, and credits per job are adjusted for inflation and expressed in constant 2020 dollars. Years eligible is the total time period in years through calendar 2020 that the county qualified under the program.

Source: Department of Commerce; U.S. Bureau of Labor Statistics; Department of Legislative Services

Exhibit 4.4

Qualified County Designations

Calendar 2001-2020



Source: Department of Legislative Services

Business Activity of One Maryland Projects

A business can either establish a new facility or expand a qualifying facility in order to qualify for the credit. A new facility includes an existing company that previously did not have a presence in Maryland, establishing a new facility in the State and a start-up company. As shown in **Exhibit 4.5**, facility expansions accounted for slightly more than 60% of all credits. Expansions typically report a higher number of qualifying positions for each project and are typically less capital intensive. As a result, expansions have a greater share of total jobs (two-thirds) and an average credit of about $75,200 per reported job, which is about one-fifth lower than the average for new facilities ($91,786).

Exhibit 4.5
One Maryland Projects by Project Type
($ in Millions)

Project Type	Total Credits	Jobs
Expansion	$223.7	2,975
New Facility	140.8	1,534
Total	**$364.5**	**4,509**

Note: The amount of credits is adjusted for inflation and expressed in constant 2020 dollars.

Source: Department of Commerce; Department of Legislative Services

Few Small Businesses Are Claiming the Tax Credit

Since the creation of the new lower minimum job threshold established by Chapters 583 and 584, only one company has been certified for creating less than 25 positions. The requirement that a business have at least $500,000 in eligible project costs may be a barrier for small businesses to claim the credit. Commerce advises that the One Maryland Tax Credit Program is unlike other programs that it administers in that it provides a tax credit based on capital costs. Many start-up companies may lack the ability or desire to make large capital investments. Additionally, the COVID-19 pandemic has decreased the need for large, centralized offices due to increased teleworking. Analysts project that organizations may increasingly shift to remote working and potentially eliminate real estate costs.

Due to a lack of information, the number of participating small businesses is unknown. Commerce reports the number of certified positions for each project but does not report the total employment of the business or the number of individuals employed in the State.

Several Companies Have Claimed Multiple One Maryland Tax Credits

Most companies have undertaken only one qualifying One Maryland project – these 52 companies have been certified for a total of $209.2 million in tax credits. Unless otherwise approved by the Secretary of Commerce, companies may receive multiple One Maryland tax credits if a subsequent qualifying project:

- occurs at the same facility or another facility located in the same county, provided that the cumulative credit may not exceed the project credit maximum limits; or

- is located in a different qualified county.

In addition, the Secretary can award a company that has more than one project in the same county additional credits that exceed the maximum limits specified in statute. The Secretary may, in extraordinary circumstances, make a determination to certify additional credits if the project is deemed to have "significant value to the county due to the number of jobs to be created, quality of jobs, job training programs to be offered, or other economic development factors."

Accordingly, eight companies have undertaken multiple qualifying projects – these companies had 27 projects that were certified for a total of $110.5 million in credits, or a little less than one-third of all credits. **Exhibit 4.6** shows the breakdown of projects and credits certified based on whether the company had one or multiple qualifying projects.

Exhibit 4.6
One Maryland Credits by Credit Classification
Calendar 2001-2020
($ in Millions)

Classification	Companies	Projects	Total Credits
Company Had One Qualifying Project	52	52	$254.0
Company Had Two Projects	3	6	30.8
Company Had Three Projects	4	12	40.9
Company Had Nine Projects	1	9	38.8
Total	**60**	**79**	**$364.5**

Note: The amount of credits is adjusted for inflation and expressed in constant 2020 dollars.

Source: Department of Commerce; Department of Legislative Services

Four of the companies with multiple projects received certifications during the time period covered by the 2014 DLS evaluation but have subsequently not received additional One Maryland tax credits. These companies are Constellation Energy, Alliant Techsystems (subsequently merged then acquired by Northrup Grumman), Garrett Container Systems, and Morgan Stanley. Two companies – Choptank Transport and Amazon.com – have received multiple credits since the 2014 evaluation. The remaining two companies – Beitzel Corporation and Under Armour – received credits during both time periods. **Appendix 2** provides details on the One Maryland projects certified since calendar 2001.

Chapter 5. Credit Effectiveness and Implementation Issues

Implementation Issues in Recent Legislative Audit

The Office of Legislative Audits (OLA) within the Department of Legislative Services (DLS) conducted a fiscal compliance audit of the Department of Commerce (Commerce) for the period beginning July 1, 2014, and ending December 18, 2017. OLA found that Commerce had not established effective procedures to verify that One Maryland tax credit applicants accurately reported new positions created, as required, before issuing a tax credit certificate. Additionally, OLA found that Commerce certified one tax credit based on ineligible project costs.

Commerce's Office of Internal Audits (OIA) reviewed payroll records for only a limited number of applicants to verify new positions claimed. Of a total of 15 credits certified during the audit period, OIA performed only three payroll record verifications. OLA further examined 6 of the tax credits and found that Commerce certified 1 tax credit totaling $5.5 million for ineligible project costs. OLA recommended that Commerce:

- obtain documentation for and verify the number of new positions created and filled by each applicant, including the date filled and the duration of time in which they were filled (a repeat finding);

- ensure that project cost eligibility verifications are performed consistent with State regulations; and

- take action to rescind the ineligible tax credit.

Commerce agreed with OLA's recommendations regarding the One Maryland Tax Credit Program. Commerce now verifies employment by obtaining quarterly unemployment insurance reports filed with the Maryland Department of Labor. Commerce reviews the report for each employee to determine hire and termination dates, annual wage, hourly wage, and length of time that the position was filled. Commerce resolves any discrepancy with the company and issues the tax credit for only what can be verified. Additionally, Commerce has hired a compliance officer within the Office of Finance Programs who performs employment verification. In lieu of this review, an applicant may hire an independent certified public accountant to verify the jobs and provide an attestation report to Commerce. Commerce notes that it will rescind any future credits that are not subsequently verified. Commerce has updated its application checklists to ensure that all requirements are being reviewed and are met, and it is also updating its internal procedures.

Commerce agrees that project cost eligibility verifications should be performed consistent with State regulations. Commerce also advised OLA that the regulation disallowing intercompany invoices is antiquated in today's economy and does not reflect current business practices. In the case referenced by the auditors, Commerce notes that the project costs for which the applicant received the tax credit were within statute's definition of eligible project costs. Commerce plans to amend the regulation that allows an exception in similar future circumstances so that a waiver is no longer necessary if expenses between related parties are supported by invoices incurred by the related party to unrelated third-party vendors that demonstrate a cost savings to the applicant.

Recent Legislation Has Altered the Program

Chapters 583 and 584 of 2018 made significant changes to the One Maryland Tax Credit Program with the intent of simplifying the process of claiming and administering the credit and expanding geographic eligibility. The changes included establishing a tiered structure for project tax credits based on the number of qualifying positions and reducing the number of years that tax credits may be carried forward from 14 years to 10 years. As noted in previous chapters of this evaluation, given its recent enactment and lack of data, its long-term impact is unknown. However, DLS examined available data and determined any improvements are modest, at best, as discussed below.

Incentives Should Avoid Cliff Effects

In tax policy, cliff effects refer to the triggering of a sudden change in tax liability once a taxpayer's attribute exceeds a certain threshold. A common example is the phase-out of certain benefits based on income. Cliff effects produce undesirable equity outcomes by imposing different tax liabilities on two taxpayers with nearly identical situations. In addition, undesirable efficiency outcomes result from the misalignment of incentives with their intended economic outcomes. Policies can avoid cliff effects by smoothing economic shocks to households and businesses, thereby leading to equity and efficiency improvements.

As Established, One Maryland Tax Structure Contributed to Significant Cliff Effect

As originally established, the One Maryland Tax Credit Program allowed a business that reported adding at least 25 qualified employees to claim a credit for 100% of the eligible project costs, subject to a maximum of $5.5 million. The design of the tax credit led to significant cliff effects between companies with similar projects that did and did not qualify for the credit. In addition, the incentive structure reduced its effectiveness – the job threshold acted as a floor that had to be met. Beyond this threshold or cliff, the credit was indifferent even though a project produced greater economic benefits. Accordingly, the 2014 DLS evaluation of the One Maryland tax credit found significant variation in the reported creation of jobs, wages paid, and cost effectiveness among projects.

Despite Changes, One Maryland Tax Credit Continues to Have Significant Cliff Effects

Chapters 583 and 584 require a business to create at least 50 qualified positions to claim the maximum $5 million credit (or $5.5 million enhanced credit). Other projects may claim a maximum $1.0 million in tax credits (10 to 24 qualified positions) or $2.5 million (11 to

24 qualified positions). Although the previous tax credit did not create any incentive to increase employment once the minimum job threshold is reached, the current credit only provides marginal incentives and continues to have significant cliff effects.

Exhibit 5.1 shows that the average credit per job decreases for every additional position added once a business becomes eligible for the credit under the previous credit. Thus, there was no incentive to create additional positions once a business created the minimum jobs threshold of 25. Chapters 583 and 584 largely provide an incentive for a business to create additional positions only when the business is close to each of the three job thresholds. For example, a business that creates 10 positions has no incentive to add an additional position as there is no increase in the tax credit (no marginal benefit) unless the business adds a total of 25 positions. Thus, the business would earn $2.5 million in credits instead of $1.0 million. Under the current credit, once a business creates 50 positions, there is no incentive to add additional positions.

Exhibit 5.1
Maximum One Maryland Tax Credit Value
By Qualified Positions

Previous Credit			Current Credit		
Positions	Maximum Credit	Credit Per Job	Positions	Maximum Credit	Credit Per Job
9	$0	$0	9	$0	$0
10	0	0	10	1,000,000	100,000
11	0	0	11	1,000,000	90,909
24	0	0	24	1,000,000	41,667
25	5,500,000	220,000	25	2,500,000	100,000
26	5,500,000	211,538	26	2,500,000	96,154
49	5,500,000	112,245	49	2,500,000	51,020
50	5,500,000	110,000	50	5,000,000	100,000
51	5,500,000	107,843	51	5,000,000	98,039
100	5,500,000	55,000	100	5,000,000	50,000

Note: The maximum current credit is $5.5 million if the project is located within a federal opportunity zone in Allegany, Garrett, Somerset, or Wicomico counties.

Source: Department of Legislative Services

From the perspective of the State, these cliff effects also produce inconsistent incentives for each job reported, contributing to the continued variation in the program's benefits and costs. As part of an expansion, a business may plan to incur $2.5 million in capital expenditures to expand a facility and hire 20 additional employees. The business would earn a credit of $1.0 million or $50,000 per employee. However, given the credit's structure, it may instead hire 25 additional employees and earn a credit of $2.5 million. Although this is beneficial to the State, it comes at a steep cost, as the marginal cost of each job in excess of 20 is equal to $500,000 compared to an average cost of $100,000 for each position up to a total of 20.

Economic Analysis of Tax Credit Structure

Using REMI PI+ software, DLS estimated the economic impacts of altering the One Maryland tax credit by (1) creating a tiered tax credit structure and (2) reducing the time period in which companies claim the credit.

The REMI PI+ software is an economic impact tool that uses historical data and forecasts to create a dynamic model of the Maryland economy. The REMI model is a macroeconomic impact model that incorporates and integrates aspects of four major modeling approaches: (1) input-output; (2) general equilibrium; (3) econometric; and (4) economic geography. The REMI model, at its core, has the interindustry relationships found in input-output models. As a result, the industry structure of a particular region is captured within the model as well as transactions between industries. Changes that affect industry sectors that are highly interconnected to the rest of the State, and regional economy will often have a greater economic impact than those that are not closely linked.

The REMI model generates year-by-year estimates of the total regional effects of a specific policy initiative or combination of initiatives. The model used by DLS is calibrated to the Maryland and District of Columbia region. Each calibrated region has economic and demographic variables as well as variables that test the economic impact of policy changes. Model simulations can estimate comprehensive economic and demographic effects of policies and programs for economic development, infrastructure, environment, energy, natural resources, and state and local tax changes. The primary national, state, and county data source for the REMI model is the Bureau of Economic Analysis State Personal Income and Local Area Personal Income series (which also include employment and total population data). This data is available for the United States and states at the summary level (94 industries), and for counties at the sector level (24 industries).

Model Data and Assumptions

DLS estimated the credit's economic impact under two different scenarios. In the first scenario, referred to as the previous credit, DLS estimates the impact on the Maryland economy using the average yearly program activity and credits that have occurred to date. In the second scenario, for the current credit, DLS estimates the economic impact of the average yearly activity but adjusts the credits awarded to reflect the changes enacted by Chapters 583 and 584. In both scenarios, DLS assumed that businesses would not have hired additional workers and made capital improvements in Maryland in the absence of the tax credit. In addition, DLS assumes that despite a net reduction in tax credit awards (about one-fifth), the projects produced the same economic benefits (capital costs and jobs).

Exhibit 5.2 compares the estimated economic impacts of the One Maryland tax credit before and after the changes enacted by Chapters 583 and 584. In the first scenario, under the previous credit, the tax credit increased Maryland average annual employment by approximately 369 jobs over a 10-year timeframe. Over the same time, the State's Gross Domestic Product (GDP) increases by $524.9 million and disposable personal income across the State increases by $229.3 million.

Exhibit 5.2
One Maryland Credit 10-Year Economic Impacts Employment, Income, and Gross Domestic Product
($ in Millions)

	Previous Credit	Current Credit	Difference	Percent Change
Employment (Individuals)	368.8	376.8	7.9	2.2%
Gross Domestic Product	$524.9	$532.1	$7.2	1.4%
Disposable Personal Income	$229.3	$234.4	$5.2	2.3%

Note: REMI defines a "job" as a unit of labor equivalent to 12 months of employment in a given year. REMI determines the number of jobs based on the amount of output for an industry and the labor productivity of the area. Specifically, the number of jobs in any given year is an industry's output, divided by the average labor productivity of the industry. Effectively, what this means is that jobs are relative to the average labor productivity of an industry and do not represent specific individuals in that industry.

Source: Department of Legislative Services

In the second scenario, the current One Maryland tax credit increases Maryland average annual employment by 377 jobs, GDP increases by $532.1 million, and disposable personal income increases by $234.4 million. More details on the economic impacts of the previous and current tax credit can be found in **Appendix 3** and **Appendix 4**.

These findings suggest that Chapters 583 and 584 made, at best, a modest improvement to the One Maryland Tax Credit Program – a 2.2% improvement in employment, 1.4% increase in GDP, and 2.3% increase in disposable personal income. These modest improvements are despite the scenarios' assumption that there would be no reduction in capital spending and jobs, despite a lower credit. Under the previous tax credit, businesses received $364.5 million in tax credits but, under the current tax credit, businesses would have only been certified for $287.9 million of credits. Accordingly, the improvements, if any, created by the current tax credit are likely lower than estimated.

Condensed Time Period to Claim the Credit

Chapters 583 and 584 reduced the time period in which a business can carry forward unclaimed tax credits by four years. Additionally, the Acts allow the credit to be claimed against the total income of a business rather than solely against the income attributable to the One Maryland project, thus potentially enabling the business to claim the credit sooner. It is too soon to determine whether these changes have had a fiscal impact, although these changes have eased the administrative burden of claiming the credit.

Even if the Acts decreased the time period in which the credit is claimed, there is no long-term economic impact on Maryland's economy. Using REMI PI+ software, DLS estimated the potential economic impacts of condensing the time period to claim One Maryland tax credits by assuming that tax credits are claimed over four years instead of five years. While this lowers employment, GDP, and disposable personal income by 2% or 3% in the short term, there is no meaningful long-term effect, as shown in **Exhibit 5.3**.

Exhibit 5.3
One Maryland Tax Credit Claims Over 5 Years versus 4 Years
Employment, Income, and Gross Domestic Product
($ in Millions)

	5 Years	4 Years	Difference	% Change
Short-term Impact (5 Years)				
Employment (Individuals)	392.7	380.7	-12.1	-3.1%
Gross Domestic Product	$261.2	$255.7	-$5.5	-2.1%
Disposable Personal Income	$109.7	$106.3	-$3.4	-3.1%
Long-term Impact (10 Years)				
Employment (Individuals)	376.8	376.8	0.0	0.0%
Gross Domestic Product	$532.1	$532.2	$0.1	0.0%
Disposable Personal Income	$234.4	$234.3	-$0.2	-0.1%

Source: Department of Legislative Services

Decreasing the time period in which tax credits may be claimed can improve the program's fiscal certainty and increase economic benefits by providing additional certainty to businesses claiming the tax credit. Research suggests that businesses may significantly discount future tax credit benefits, particularly if there is uncertainty about how and when the benefits may be claimed. A tax credit program that provides more tax benefits at the time of the project is more likely to incent a business to undertake projects and increase employment.

State Programs Focused on Distressed Areas Have Similar Flaws

A number of federal and State programs aim to promote economic development within economically distressed areas and provide job opportunities to low-income residents. These programs include the One Maryland Tax Credit Program, Opportunity Zone Enhancement Program, enterprise zone program, and More Jobs for Marylanders Program. In addition, the businesses that create new jobs tax credit is similar to the One Maryland tax credit by providing incentives for new and expanded facilities within certain counties. Research indicates that effective programs:

- use appropriate measures to designate and target economically distressed areas;
- create opportunities for the residents of the low-income areas;
- provide consistent, coordinated incentives across programs; and
- have clear objectives and measurable outcomes to measure program efficiency.

DLS tax credit evaluations have found that these programs fall short of the best practices described above. As required by the Tax Credit Evaluation Act, DLS is also conducting a reevaluation of the enterprise zone program and an evaluation of the More Jobs for Marylanders Program. These reports provide more information and recommended changes to the State's economically distressed programs.

Chapter 6. Findings and Recommendations

Based on the information and analysis provided in this report, the Department of Legislative Services (DLS) recommends changes to improve the One Maryland Tax Credit Program, as discussed below.

Program Overlaps with Other Tax Credit Programs

The State and federal government have a number of similar tax incentive programs that aim to promote economic development and job creation within economically distressed areas. State programs include the enterprise zone program, the Department of Commerce (Commerce) administered finance programs that target economically distressed areas, and other tax credit programs such as the job creation tax credit that provides enhanced tax credits within distressed areas. The businesses that create new jobs tax credit provides tax credits for businesses that establish or expand a business facility in certain counties. Additional similar programs have been implemented in recent years. Chapter 149 of 2017 established the More Jobs for Marylanders Program, which has similar features as the One Maryland tax credit. Chapter 211 of 2019 established the Opportunity Zone Enhancement Program, which provides enhanced State tax credits and economic development incentives for qualifying businesses within federal opportunity zones. These programs include the One Maryland, More Jobs for Marylanders, enterprise zone, and job creation tax credit programs.

Recommendation: Given the overlap of the One Maryland Tax Credit Program with other similar tax incentive programs, DLS recommends that the General Assembly require Commerce to submit a report on consolidating or eliminating several State tax credits: One Maryland; enterprise zone; More Jobs for Marylanders; businesses that create new jobs; and the Opportunity Zone Enhancement Program.

If the General Assembly, in light of Commerce's findings from the report, decides not to consolidate or eliminate the One Maryland Tax Credit Program, DLS has several recommendations to improve the credit that are discussed below.

The Future Fiscal Impact of the One Maryland Tax Credit Remains Uncertain

Several factors continue to contribute to the program's fiscal uncertainty. Commerce may award an unlimited amount of credits in each year; thus, in approximately the same number of years the annual amount of credits certified has been $10.0 million or less, between $10.0 million and $20.0 million, or $20.0 million or greater. Companies typically receive a large tax credit that is claimed over multiple years with some companies claiming large amounts, while others have yet to claim any credits. The value of the tax credit is determined upon project certification, but the amount claimed in each year is less predictable compared to other multi-year State tax credit programs. Lastly, there is insufficient data on the amount of tax credits claimed in each year relative to the amount of credits awarded. As a result, DLS remains unable to estimate the fiscal impact of the program in each year. In addition, there is a possibility that the program's fiscal cost could increase significantly.

Recommendation: Given the future fiscal uncertainty of the credit, DLS recommends that the annual amount of credits that may be certified by Commerce be made subject to an annual State budget appropriation.

Recommendation: Given that the amount of the tax credit that can be claimed in each year is based on specific calculations (such as the amount of withholding taxes paid by qualifying employees working at the project and the net taxable income of the business), a project's expected revenue loss in each year cannot be accurately predicted. In contrast, the value of other State business tax credits that can be claimed over multiple years is calculated not at the beginning of the project but by the administering agency in each of the qualifying years of the project. Thus, DLS recommends that Commerce comment on how to redesign the One Maryland tax credit so that it is calculated in each of the qualifying years of the project, similar to other multi-year tax credits.

Recommendation: DLS recommends that statutory changes be made to require Commerce to report terminated projects to DLS and the Comptroller's Office. The formal revocation of these credit certifications will clarify State liabilities.

Data Limitations on Tax Credits Persist

The Comptroller's Office advises that it is not able to efficiently and routinely identify and report the types of credits being carried forward by companies claiming tax credits, including the One Maryland tax credit. This prevents an accurate assessment by the Comptroller's Office of the total amount of One Maryland tax credits claimed in each year as well as for other tax credits that have carry-forward provisions. Other states, such as Indiana, assign a project identification number to the tax credit form. Having a project identification number can enable tax credit carry forwards from each project to be easily identifiable.

Additionally, other data limitations exist with the One Maryland Tax Credit Program. Due to a lack of information, the number of participating small businesses in the One Maryland Tax Credit Program is unknown. Commerce reports the number of certified positions for each project but does not report the total employment of the business or the number of individuals employed in the State. Also, the Maryland Insurance Administration does not provide detailed information on businesses claiming the credit.

Recommendation: The General Assembly should consider making statutory changes that specify the treatment of tax credit carry forwards if the company has multiple tax credits. The

General Assembly should require the Comptroller to report tax credit carry forwards for each tax credit.

Recommendation: Commerce should issue a project identification number to each certified project, and the project identification number should be reported when claiming the tax credit and credit carry forwards.

Recommendation: Given the General Assembly's interest in small businesses, Commerce should require businesses to report the total employment and the number of employees employed in the State for each year the credit is claimed.

Recommendation: The Maryland Insurance Administration should provide detailed information to DLS and the Comptroller's Office about each company that has been certified for a credit, including the total amount of credit each company is eligible to claim.

2018 Legislation Likely Had a Modest Impact on the Program

Chapters 583 and 584 of 2018 made significant changes to the One Maryland Tax Credit Program with the intent of simplifying the process of claiming and administering the credit and expanding geographic eligibility. Given its recent enactment and lack of data, its long-term impact is unknown; however, DLS examined available data and determined any improvements are modest, at best. By performing an economic analysis of the changes enacted by Chapters 583 and 584, DLS's findings suggest that Chapters 583 and 584 made at best a modest, short-term improvement to the One Maryland Tax Credit Program – a 2.2% improvement in employment, a 1.4% increase in GDP, and a 2.3% increase in disposable personal income. Additionally, small businesses have yet to take advantage of the lower employee thresholds established by Chapters 583 and 584. While Kent and Wicomico counties were designated as a Tier I counties in July 2018, these counties do not have any projects that have filled qualifying positions for the required time period.

Recommendation: Commerce should comment on how the 2018 legislation has affected the program, particularly in regards to the lack of small business activity and the failure of the credit to generate activity on much of the Eastern Shore.

One Maryland Tax Credit Continues to Have Significant Cliff Effects

As originally established, the One Maryland Tax Credit Program allowed a business that reported adding at least 25 qualified employees to claim a credit for 100% of the eligible project costs, subject to a maximum of $5.5 million. The design of the tax credit led to significant cliff effects between companies with similar projects that did and did not qualify for the credit. In addition, the incentive structure reduced its effectiveness – the job threshold acted as a floor that had to be met. Beyond this threshold or cliff the credit was indifferent even though a project produced greater economic benefits. Accordingly, the 2014 DLS evaluation of the One Maryland tax credit found significant variation in the reported creation of jobs, wages paid, and cost effectiveness among projects. After Chapters 583 and 584, the current credit only provides marginal incentives and continues to have significant cliff effects. From the perspective of the State, these cliff effects also produce inconsistent incentives for each job reported, contributing to continued variation in the program's benefits and costs.

Recommendation: Commerce should comment on how to redesign the tax credit to avoid significant cliff effects. Eliminating cliff effects could create stronger incentives for businesses and improve the effectiveness of the program.

Appendix 1

Total One Maryland Tax Credits Certified

Calendar 2001-2020

($ in Millions)

Certification Year	Projects	Total Credits	Average Credits
2001	1	$5.5	$5.5
2002	6	26.0	4.3
2003	4	14.0	3.5
2004	4	7.4	1.8
2005	5	21.8	4.4
2006	4	8.6	2.1
2007	6	22.0	3.7
2008	5	18.6	3.7
2009	3	9.9	3.3
2010	6	31.8	5.3
2011	3	11.5	3.8
2012	7	20.3	2.9
2013	3	12.6	4.2
2014	2	7.1	3.5
2015	2	8.2	4.1
2016	9	48.0	5.3
2017	3	12.1	4.0
2018	5	14.8	3.0
2020	1	5.0	5.0
Total	**79**	**$305.1**	**$3.9**

Note: Calendar 2020 reflects through May 20, 2020.

Source: Department of Commerce

Appendix 2

List of One Maryland Projects

Company	County	Certification Date	Certified Credit	Certified Jobs
AJM Enterprises, Inc.	Baltimore City	2009	$2,804,144	43
Alliant Techsystems, Inc. I	Baltimore City	2011	5,500,000	30
Alliant Techsystems, Inc. II	Cecil	2010	5,500,000	120
Amazon.com	Baltimore City	2016	5,500,000	25
Amazon.com	Baltimore City	2016	5,500,000	37
Amazon.com	Baltimore City	2018	5,500,000	25
American Skyline Insurance Company, Inc.	Baltimore City	2003	4,680,000	48
American Woodmark Corporation	Allegany	2011	5,500,000	61
APS East Coast, Inc.	Baltimore City	2009	1,641,000	54
Baker's Express of Maryland, Inc.	Baltimore City	2002	4,790,000	51
Baltimore Truck Wash	Baltimore City	2008	3,820,006	57
Bank One	Baltimore City	2002	5,500,000	54
Beitzel Corporation	Garrett	2012	4,018,605	27
Beitzel Corporation	Garrett	2014	1,553,545	27
Beitzel Corporation	Garrett	2017	5,500,000	29
Burris Logistics, Inc.	Cecil	2007	5,500,000	249
CBIZ Insurance Services, Inc.	Allegany	2003	2,568,200	26
Choptank Transport, Inc.	Caroline	2013	1,556,536	45
Choptank Transport, Inc.	Caroline	2018	2,428,655	59
CompManagment of Virginia, Inc.	Baltimore City	2004	500,000	27
Constellation Energy Commodities Group	Baltimore City	2007	2,342,000	97
Constellation Energy Group	Baltimore City	2007	1,475,000	169

Company	County	Certification Date	Certified Credit	Certified Jobs
Constellation NewEnergy, Inc.	Baltimore City	2007	1,683,000	159
Crystal Steel Fabricators, Inc.	Caroline	2018	5,500,000	58
Dean Maryland, Inc.	Baltimore City	2014	$5,500,000	26
Ellicott Dredges	Baltimore City	2012	2,838,243	25
Evitts Resort	Allegany	2016	5,500,000	73
F&G Life Insurance Company (Old Mutual Financial Life Insurance)	Baltimore City	2002	4,500,000	56
Federal Insurance Company	Baltimore City	2010	4,251,761	139
First Mariner Bank	Baltimore City	2003	5,500,000	35
Fresh Ideation Food Groups	Baltimore City	2017	1,136,274	29
Garrett Container Systems, Inc.	Garrett	2002	625,000	25
Garrett Container Systems, Inc.	Garrett	2004	508,000	28
Garrett Container Systems, Inc.	Garrett	2012	2,677,997	25
GCC Technologies, Inc.	Garrett	2012	3,031,526	28
Groove Commerce	Baltimore City	2018	563,448	19
Hanover Foods Corporation	Caroline	2002	5,093,000	35
Hardwire	Worcester	2010	5,500,000	25
Hunter Douglas Fabrication Company	Allegany	2002	5,500,000	65
Jason Pharmaceuticals Incorporated	Caroline	2006	2,577,000	35
Lieber Institute for Brain Development	Baltimore City	2013	5,500,000	45
LWRC International	Dorchester	2012	1,586,691	30
Mack Trucks, Inc.	Washington	2016	5,500,000	174
Mid-Atlantic Baking Company	Baltimore City	2004	5,500,000	64
Millsource, Inc.	Baltimore City	2018	791,058	33
Morgan Stanley & Company	Baltimore City	2005	5,500,000	51

Company	County	Certification Date	Certified Credit	Certified Jobs
Morgan Stanley & Company	Baltimore City	2010	5,500,000	124
Mushroom Canning Company	Dorchester	2005	5,017,000	73
NCO Financial Systems, Inc.	Baltimore City	2008	2,694,445	51
New England Motor Freight	Cecil	2008	5,500,000	44
Nurad Technologies, Inc.	Baltimore City	2005	3,665,000	37
Pandora Jewelry	Baltimore City	2016	5,500,000	27
Paragon BioServices, Inc.	Baltimore City	2016	5,500,000	25
Personal Genome Diagnostics	Baltimore City	2020	5,000,000	111
Poly-Seal Corporation	Baltimore City	2015	5,500,000	46
Reznick Group, PC	Baltimore City	2008	4,300,000	36
Ritz Camera Centers, Inc. (Boaters World)	Caroline	2006	2,750,000	25
Sealy Mattress Manufacturing Company	Washington	2017	5,500,000	64
Standard Auto Parts Corp.	Baltimore City	2006	2,173,000	33
Stifel Nicolaus & Company	Baltimore City	2010	5,500,000	32
Superfos Packaging, Inc. (Berry Plastics SP, Inc.)	Allegany	2001	5,500,000	33
T Rowe Price Associates, Inc.	Baltimore City	2009	5,500,000	116
The Quikrete Companies, Inc.	Cecil	2007	5,500,000	41
The Sherwin-Williams Company	Somerset	2012	598,997	31
The Webstaurant Store, Inc.	Allegany	2016	5,500,000	104
Tractor Supply Company	Washington	2016	4,014,554	38
Under Armour, Inc.	Baltimore City	2006	1,083,000	54
Under Armour, Inc.	Baltimore City	2007	5,500,000	73
Under Armour, Inc.	Baltimore City	2010	5,500,000	130
Under Armour, Inc.	Baltimore City	2013	5,500,000	52

Company	County	Certification Date	Certified Credit	Certified Jobs
Under Armour, Inc.	Baltimore City	2016	5,500,000	36
Under Armour, Inc.	Baltimore City	2003	1,290,700	33
Under Armour, Inc.	Baltimore City	2004	876,300	40
Under Armour, Inc.	Baltimore City	2005	2,250,000	46
Under Armour, Inc.	Baltimore City	2012	5,500,000	137
Vane Line Bunkering, Inc.	Baltimore City	2005	5,352,000	26
Videology, Inc.	Baltimore City	2015	2,678,137	65
Warwick Fulfillment Solutions	Dorchester	2011	516,705	25
World Relief Corporation/National Association of Evangelicals	Baltimore City	2008	2,296,000	59

Source: Department of Commerce; Department of Legislative Services

Appendix 3
Economic Impact – Previous Tax Credit
Calendar 2020-2029
($ in Millions)

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Employment (Individuals)										
Baseline	3,778,795	3,807,429	3,852,209	3,847,662	3,846,133	3,842,440	3,841,189	3,847,332	3,858,362	3,874,739
After Credit	3,779,444	3,807,732	3,852,529	3,847,978	3,846,444	3,842,746	3,841,563	3,847,703	3,858,732	3,875,108
Net Effect	**649**	**303**	**320**	**316**	**311**	**306**	**374**	**371**	**370**	**369**
Gross Domestic Product										
Baseline	$408,442	$421,910	$427,762	$432,863	$438,210	$443,290	$448,845	$455,318	$461,960	$469,470
After Credit	408,514	421,953	427,808	432,910	438,257	443,337	448,900	455,373	462,016	469,527
Net Effect	**$72**	**$44**	**$46**	**$47**	**$47**	**$47**	**$55**	**$55**	**$56**	**$57**
Disposable Personal Income										
Baseline	$355,442	$353,711	$359,284	$364,745	$370,870	$379,464	$384,803	$390,561	$400,805	$406,803
After Credit	355,477	353,725	359,303	364,764	370,889	379,484	384,827	390,586	400,831	406,830
Net Effect	**$35**	**$14**	**$18**	**$19**	**$20**	**$20**	**$25**	**$25**	**$26**	**$27**

Source: Department of Legislative Services

Appendix 4
Economic Impact – Current Tax Credit
Calendar 2020-2029
($ in Millions)

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Employment (Individuals)										
Baseline	3,778,795	3,807,429	3,852,209	3,847,662	3,846,133	3,842,440	3,841,189	3,847,332	3,858,362	3,874,739
After Credit	3,779,444	3,807,748	3,852,545	3,847,994	3,846,461	3,842,762	3,841,563	3,847,703	3,858,731	3,875,108
Net Effect	**649**	**319**	**336**	**332**	**328**	**322**	**374**	**371**	**369**	**368**
Gross Domestic Product										
Baseline	$408,442	$421,910	$427,762	$432,863	$438,210	$443,290	$448,845	$455,318	$461,960	$469,470
After Credit	408,514	421,955	427,810	432,911	438,259	443,339	448,900	455,373	462,016	469,527
Net Effect	**$72**	**$45**	**$48**	**$48**	**$49**	**$49**	**$55**	**$55**	**$56**	**$57**
Disposable Personal Income										
Baseline	$355,442	$353,711	$359,284	$364,745	$370,870	$379,464	$384,803	$390,561	$400,805	$406,803
After Credit	355,477	353,726	359,304	364,765	370,890	379,485	384,828	390,586	400,831	406,830
Net Effect	**$35**	**$15**	**$19**	**$20**	**$21**	**$21**	**$25**	**$25**	**$26**	**$27**

Source: Department of Legislative Services