Maryland
DEPARTMENT OF COMMERCE

Larry Hogan | Governor
Boyd Rutherford | Lt. Governor
Kelly M. Schulz | Secretary of Commerce

**DATE:** **February 12, 2020** **COMMITTEE: House Ways and Means**
**BILL NO:** **House Bill 565**
**BILL TITLE:** **Income Tax – Business and Economic Development Tax Credits - Termination**
**POSITION:** **Oppose**

The Maryland Department of Commerce opposes House Bill 565 – Income Tax – Business and Economic Development Tax Credits – Termination.

**Bill Summary**:
HB 565 would phase out and terminate the following tax incentive programs administered by Commerce: Enterprise Zone Tax Credit Program, RISE Zone Program, Opportunity Zone Enhancement Program, One Maryland Tax Credit Program, Biotechnology Investment Incentive Tax Credit, Film Production Activity Tax Credit, Buy Maryland Cybersecurity Tax Credit Program, Small Business Relief Tax Credit Program. HB 565 does not propose any replacement incentives to address the business growth and attraction needs these tools represent.

**Rationale**:
"Economic development is about positioning the economy on a higher growth trajectory . . . it is the product of long-term investments in the generation of new ideas, knowledge transfer, and infrastructure, and . . . requires collective action and large-scale, long-horizon investment." In short, "economic development addresses the fundamental conditions necessary for the microeconomic functioning of the economy."[1]

The major thrust of most economic development programs is the carefully applied incentives to shape certain, important economic investments that can benefit the State's citizens and place its economy on the aforementioned "higher growth trajectory." Maryland, like all other states, uses economic development incentives to attract and retain jobs and investment and to help grow important industry sectors.

Maryland is in direct competition with both other U.S. states and with the rest of the world. Our business attraction and retention efforts don't lead with incentives, but with our optimal location, highly-educated workforce, and unique State resources. All things being equal, these characteristics would be enough to attract and retain jobs and investment to the State. However, all things are not equal.

Maryland's current programs are barely competitive with other states. The State of Maryland spends half what neighboring Virginia and only 40 percent of what Pennsylvania spends on

[1] https://www.eda.gov/files/tools/research-reports/investment-definition-model.pdf

incentives. Maryland's state incentive spending pales in comparison to the $1.3 billion spent by the State of New York in FY2020.

We at Commerce understand the importance of a highly-educated workforce, and how a properly-funded educational system contributes to that. However, we cannot cut our way to better education. The best way to fund the recommendations of the Kirwan Commission is to grow the economy and to increase the personal income of Marylanders, and the only way to do that is to make investments in business growth and attraction.

The programs that HB 565 seeks to cut are designed to revitalize distressed areas, support the missions of our colleges and universities, attract investment in key industries, and support our highly educated workforce. Even with Maryland's constrained spending as compared to other states, its programs have had successes in attracting and retaining businesses and in assisting the growth of key industry sectors. Each of the programs marked for elimination in HB 565 have successfully fulfilled their missions. Here are some examples:

**Biotechnology Investment Incentive Tax Credit (BIITC)**

- Biotechnology is one of Maryland's key industry sectors.
- Maryland is home to over 500 biotechnology companies and 2,700 life science firms. In supporting these companies, and assisting with the creation of new companies, the biotechnology investment incentive is an important contribution to Maryland's status as a national leader in biotechnology and life sciences.
- By supporting investment in early stage biotechnology companies, BIITC supports the State's innovation ecosystem, which includes Maryland being the world leader in stem cell production and vaccine research and development.
- Since 2005, the BIITC has helped to stimulate nearly $232 million dollars of investment in 111 Maryland biotechnology companies.
- While jobs may be created as a result of investment in biotechnology companies, job creation is not the primary focus of the tax credit. The biotechnology investment incentive is designed to attract capital to biotechnology companies navigating the "valley of death," which is the most difficult period of time to attract capital investment as companies go through clinical trials prior to FDA approval of their products.
- Examples of FDA approved products developed with the assistance of the biotechnology investment incentive tax credit include:
    - A system for early blood clot detection and monitoring associated with surgical procedures;
    - Advanced imaging, navigation, and probe system to provide highly accurate physician guidance for biopsy and other surgical procedures;
    - Advanced wound treatment and bleeding management products; and
    - The world's first ultrasound-based system for placing feeding tubes.

**One Maryland Tax Credit**

- The One Maryland tax credit is designed to attract capital investment and create jobs in local jurisdictions with higher unemployment rates, or low median household incomes, and provides additional incentives for projects that hire economically disadvantaged individuals.

- Since the program began, the One Maryland tax credit has been certified for 80 projects, with 17 projects in Western Maryland, 15 projects on the Eastern Shore, and 48 projects in Baltimore City.
- The certified projects have leveraged at least $299,216,226 in capital investment and created 4,463 jobs that have an average salary of $53,174 for the life of the program.

**Enterprise Zones**

- Enterprise Zones are a State-local partnership that allows local jurisdictions to prioritize areas for economic development in priority funding areas that have: high unemployment; a concentration of low-income households; experienced population loss; or a decline in property tax revenues.
- Enterprise Zones are often one of the few incentive tools available to local jurisdictions, and is funded on 50/50 local-state basis, with the State reimbursing local jurisdictions for 50% of the cost of the credit.
- Local jurisdictions propose the location and size of Enterprise Zones that are certified by Commerce, and local jurisdictions administer the program with oversight from Commerce.
- Enterprise Zones have proven to be a successful economic development incentive, particularly with increasing the local property tax base, which primarily benefits local jurisdictions.

**RISE Zones**

- The Regional Institution Strategic Enterprise (RISE) Zone program was created to access qualified institutions that have a strong and demonstrated history of commitment to economic development and revitalization in their communities. Qualified institutions include: higher education institutions; regional higher education centers; or non-profits affiliated with a federal agency.
- RISE Zones are a State and local partnership in which local governments partner with a qualified institution to designate the geographic are of a RISE Zone, which is certified by Commerce.
- Six RISE Zones have been designated in five local jurisdictions: UMB, University of Maryland College Park, UMBC, Salisbury University, Morgan State University and Montgomery College. Each zone has reported development in residential and commercial properties, and report that they utilize the tax benefits offered by the zone to attract new businesses.

**Employer Security Clearance Costs**

- Given the defense industry's importance to Maryland's economy, the Employer Security Clearance Costs tax credit was created to mitigate the effects of delays in the federal security clearance process suffered by federal contractors, many of which are small businesses.
- A recent study the Department submitted to the Maryland General Assembly examined the impact of defense industry employment in the State. This study:
  - Estimated that 15.4% of the State's GDP is attributable to the defense industry;
  - Estimated that the number of industry sector jobs in Maryland that require a security clearance ranges from 228,145 to 305,119;

- Identified that 6.7% to 9.0% of all jobs requiring security clearance are in Maryland, which is disproportionately high considering Maryland's population represents approximately 1.8% of the national population; and
- Reported that employer's indicated that 90% to 100% of their jobs require a security clearance.

- Currently, it takes 422 days to process a top secret security clearance and 234 days to process a secret security clearance. Reinvestigations to maintain a security clearance takes even longer, with secret clearance reinvestigations taking 446 days and top secret clearance investigations taking 582 days Maryland defense contractors can have employees on their payroll for over a year who cannot do the work they were hired to do until the receive a security clearance.

**Buy Maryland Cybersecurity**

- The Buy Maryland Cybersecurity tax credit is designed to promote: the purchase of cybersecurity goods and services from Maryland cybersecurity businesses; and to encourage Maryland small businesses to improve their cybersecurity protections, by offering a tax credit of up to 50% of the cost of a cybersecurity purchases made by small businesses.
- The seller must have less than $5 million in sales, or be one of the following: minority-owned, woman-owned, veteran-owned, service disabled veteran-owned; or located in a historically underutilized business zone designated by the US Small Business Administration.
- A small business cybersecurity buyer may not claim more than $50,000 for the tax credit in a year, and the credit applies up to $400,000 ($200,000 tax credit) for single cybersecurity buyer in a year. These limits allow more small businesses to make cybersecurity purchases, and for more Maryland cybersecurity companies to participate in the program.
- Interest in the program, which was implemented in the fall of 2018, is growing. Since 2018, 23 companies have been certified as a Qualified Maryland Cybersecurity Sellers, and the tax credit has supported 42 small businesses to make purchases from Maryland cybersecurity companies.
- Encouraging small businesses to "buy local" when making their cybersecurity purchases strengthens the Maryland's cybersecurity supply chain and fosters development of the cybersecurity industry as a whole in Maryland.

**Small Business Relief Tax Credit**

- In 2018, Maryland required businesses to offer at least 40 hours of sick and safe leave to their employees, but exempted small businesses with 14 or fewer employees from this requirement.
- The Small Business Relief tax credit encourages Maryland small businesses with 14 or fewer employees to provide sick and safe leave to their employees who make less than the 250% of the annual federal poverty rate by providing a tax credit of up to $500 per employee who receives sick and safe leave

**Film Production Activity Tax Credit**

- The Film Production Activity (Film) tax credit encourages film and television production in Maryland by offering a refundable tax credit up to 25% of authorized direct costs for film production activity, or 27% of authorized direct costs for a television series, with a maximum tax credit of $10,000,000 per project.
- 10% of the funding for the Film tax credit is set aside for Maryland Small Film applicants, who may receive a refundable credit up to 25% of authorized projects costs, with a maximum tax credit per project of $125,000.
- Since FY 12, $88.7 million in Film tax credits have been certified for 14 projects that:
  - Had a total production expenditures of $596.6 million;
  - Made purchases from 19,383 Maryland businesses;
  - Employed 3,332 technicians, and 14,309 actors and extras; and
  - Had an economic impact of $1.5 billion to the State's economy.
- In addition to economic benefits, the Film tax credit promotes Maryland to the country through feature length films and television series.

In today's constrained fiscal climate, we must all do more with less. We at Commerce believe that these programs are the most efficient method for incentivizing capital investments, job retention, and job growth across the State. While all programs should be reviewed periodically to ensure that they are fulfilling their missions, the wholesale elimination of necessary and successful programs without any review process is a recipe for economic failure. The best way to restructure incentives for optimal impact is to create an inclusive, deliberative process that carefully reviews each program to see how it fits into the larger goal of positioning Maryland's economy on a higher growth trajectory, much like the State did in 2000 when the Department's discretionary financing programs were modernized and consolidated.

**Commerce respectfully requests an unfavorable report on House Bill 565.**