

# HOUSE BILL 471

C8, Q3  
HB 789/15 – W&M

6lr1003  
CF 6lr2566

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By: **Delegates Lierman, Anderton, Aumann, Buckel, Ebersole, Hayes, Hornberger,  
Morgan, Platt, Rose, Shoemaker, and West**

Introduced and read first time: February 1, 2016

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Angel Investor Tax Credit Program**

3 FOR the purpose of allowing a credit against the State income tax for a certain percentage  
4 of an investment, not to exceed a certain amount, made in certain qualified  
5 innovation businesses; requiring qualified innovation businesses to meet certain  
6 certification requirements; requiring a qualified investor to meet certain  
7 requirements in order to be eligible for the credit; requiring the qualified investor to  
8 make a certain application, at least a certain number of days before making an  
9 investment, to the Department of Economic Competitiveness and Commerce;  
10 requiring the Department to certify, within a certain number of days of the  
11 application, the amount of the credit; requiring, under certain circumstances, the  
12 Secretary to issue initial and final tax credit certificates; requiring a qualified  
13 investor to make a certain investment and provide certain proof within a certain  
14 period of time; authorizing, under certain circumstances, the Department to rescind  
15 a tax credit; providing that the Secretary may not certify eligibility for tax credits for  
16 investments in a single qualified innovation business that in the aggregate exceed a  
17 certain percentage of the total appropriations to a certain Reserve Fund for that  
18 fiscal year; requiring the Secretary to certify a certain percentage of tax credits for  
19 investments in certain qualified innovation businesses; providing for the  
20 carryforward of the credit; establishing the Maryland Angel Investor Tax Credit  
21 Reserve Fund as a special continuing, nonlapsing fund; requiring the Department to  
22 administer the Reserve Fund; requiring the State Treasurer to hold the Reserve  
23 Fund; specifying the contents of the Reserve Fund; requiring the Governor to make  
24 an appropriation to the Reserve Fund each fiscal year; requiring, each quarter, that  
25 the Department notify the Comptroller of a certain amount and the Comptroller to  
26 transfer a certain amount from the Reserve Fund to the General Fund; providing for  
27 the recapture of the credit under certain circumstances; authorizing the Department,  
28 after a certain notification and opportunity for appeal, to revoke a credit; requiring  
29 a qualified innovation business that receives an investment to report certain  
30 information each year to the Department; requiring the Department to report certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 information in a certain manner on or before a certain date each year; requiring the  
2 Department, in consultation with the Comptroller, to adopt certain regulations;  
3 defining certain terms; providing for the application of this Act; providing for the  
4 termination of this Act; and generally relating to a State income tax credit for certain  
5 qualified business investments.

6 BY repealing and reenacting, with amendments,

7 Article – Economic Development

8 Section 2.5–109(a)(4)

9 Annotated Code of Maryland

10 (2008 Volume and 2015 Supplement)

11 (As enacted by Chapter 58 of the Acts of the General Assembly of 2015)

12 BY adding to

13 Article – Tax – General

14 Section 10–737

15 Annotated Code of Maryland

16 (2010 Replacement Volume and 2015 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Economic Development**

20 2.5–109.

21 (a) In this section, “economic development program” means:

22 (4) each of the tax credit programs administered by the Department,  
23 including:

24 (i) the Film Production Activity Tax Credit;

25 (ii) the Job Creation Tax Credit;

26 (iii) the One Maryland Economic Development Tax Credit;

27 (iv) the Biotechnology Investment Incentive Tax Credit;

28 (v) the Research and Development Tax Credit;

29 (vi) the Security Clearance Administrative Expenses and  
30 Construction and Equipment Costs Tax Credit; [and]

31 (vii) the Cybersecurity Investment Incentive Tax Credit; **AND**

32 **(VIII) THE ANGEL INVESTOR TAX CREDIT.**

Article – Tax – General

10-737.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COMPANY” MEANS ANY ENTITY OF ANY FORM DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

(II) “COMPANY” DOES NOT INCLUDE A SOLE PROPRIETORSHIP.

(3) “DEPARTMENT” MEANS THE DEPARTMENT OF ECONOMIC COMPETITIVENESS AND COMMERCE.

(4) (I) “INVESTMENT” MEANS THE CONTRIBUTION OF MONEY IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A RISK OF LOSS, TO A QUALIFIED INNOVATION BUSINESS IN EXCHANGE FOR STOCK, A PARTNERSHIP OR MEMBERSHIP INTEREST, CONVERTIBLE DEBT, OR OTHER OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS, TITLE TO WHICH OWNERSHIP INTEREST SHALL VEST IN THE QUALIFIED INVESTOR.

(II) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IS AT RISK OF LOSS WHEN THE REPAYMENT OF THE INVESTMENT DEPENDS ENTIRELY ON THE SUCCESS OF THE BUSINESS OPERATIONS OF THE QUALIFIED INNOVATION BUSINESS.

(5) “LEGALLY OWNED OR LICENSED” INCLUDES PATENTED, PATENT PENDING, SUBJECT OF TRADE SECRETS, OR COPYRIGHTED.

(6) “PASS-THROUGH ENTITY” MEANS A BUSINESS ENTITY THAT IS A SUBCHAPTER S CORPORATION, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A TRUST THAT HAS NO BUSINESS OPERATIONS AND IS FORMED FOR THE SOLE PURPOSE OF MAKING INVESTMENTS.

(7) (I) “QUALIFIED INNOVATION BUSINESS” MEANS A COMPANY THAT:

1. HAS MET THE CRITERIA SET FORTH IN SUBSECTION (C) OF THIS SECTION; AND

2. IS IN ONE OF THE FOLLOWING INDUSTRIES:

1                   A.    ADVANCED MATERIALS AND MANUFACTURING  
2 SYSTEMS;

3                   B.    AEROSPACE;

4                   C.    AGRICULTURAL TECHNOLOGY;

5                   D.    CLEAN ENERGY AND NATURAL RESOURCES;

6                   E.    ELECTRONIC DEVICE TECHNOLOGY;

7                   F.    HEALTH AND MEDICAL TECHNOLOGY;

8                   G.    INFORMATION TECHNOLOGY;

9                   H.    NANOTECHNOLOGY; AND

10                  I.    TRANSPORTATION AND LOGISTICS.

11                  (II)   “QUALIFIED INNOVATION BUSINESS” DOES NOT INCLUDE:

12                   1.    A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY  
13 UNDER § 10-725 OF THIS SUBTITLE; OR

14                   2.    A QUALIFIED MARYLAND CYBERSECURITY COMPANY  
15 UNDER § 10-733 OF THIS SUBTITLE.

16                  (8)   (I)   “QUALIFIED INVESTOR” MEANS AN ACCREDITED INVESTOR  
17 UNDER 17 C.F.R. § 230.501 THAT IS AN INDIVIDUAL, A MARRIED COUPLE THAT  
18 FILES A JOINT TAX RETURN, OR A PASS-THROUGH ENTITY CERTIFIED BY THE  
19 DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION.

20                  (II)   “QUALIFIED INVESTOR” DOES NOT INCLUDE:

21                   1.    A QUALIFIED PENSION PLAN, AN INDIVIDUAL  
22 RETIREMENT ACCOUNT, OR ANY OTHER QUALIFIED RETIREMENT PLAN UNDER THE  
23 EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR  
24 FIDUCIARIES OR CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX-FAVORED  
25 PLANS OR ENTITIES UNDER THE LAWS OF OTHER COUNTRIES; OR

26                   2.    A CORPORATION SUBJECT TO THE CORPORATION  
27 INCOME TAX.

1           **(9) “RESERVE FUND” MEANS THE MARYLAND ANGEL INVESTOR TAX**  
2 **CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.**

3           **(10) “SECRETARY” MEANS THE SECRETARY OF COMMERCE.**

4           **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND THE**  
5 **LIMITATIONS UNDER THIS SECTION, FOR THE TAXABLE YEAR IN WHICH AN**  
6 **INVESTMENT IN A QUALIFIED INNOVATION BUSINESS IS MADE, A QUALIFIED**  
7 **INVESTOR MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT**  
8 **EQUAL TO THE AMOUNT OF THE TAX CREDIT STATED IN THE FINAL CREDIT**  
9 **CERTIFICATE APPROVED BY THE SECRETARY.**

10           **(2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH**  
11 **(1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR MAY NOT, AFTER MAKING THE**  
12 **PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 20% OF THE EQUITY**  
13 **INTERESTS IN THE QUALIFIED INNOVATION BUSINESS IN WHICH THE INVESTMENT**  
14 **IS TO BE MADE.**

15           **(C) (1) TO BE ELIGIBLE FOR THE TAX CREDIT UNDER SUBSECTION (B) OF**  
16 **THIS SECTION, THE INVESTMENT MUST BE IN A QUALIFIED INNOVATION BUSINESS**  
17 **THAT IS CERTIFIED BY THE DEPARTMENT UNDER THIS SUBSECTION.**

18           **(2) BEFORE RECEIVING AN INVESTMENT FROM A QUALIFIED**  
19 **INVESTOR, A QUALIFIED INNOVATION BUSINESS SHALL SUBMIT AN APPLICATION TO**  
20 **THE DEPARTMENT.**

21           **(3) THE APPLICATION REQUIRED UNDER THIS SUBSECTION SHALL**  
22 **PROVIDE EVIDENCE THAT THE QUALIFIED INNOVATION BUSINESS:**

23                   **(I) IS IN GOOD STANDING AND AUTHORIZED TO CONDUCT**  
24 **BUSINESS IN THE STATE BY INCLUDING A LETTER OF GOOD STANDING FROM THE**  
25 **STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;**

26                   **(II) HAS DEVELOPED OR IS IN THE PROCESS OF DEVELOPING A**  
27 **TECHNOLOGY, PRODUCT, OR SERVICE THAT IS UNIQUE AND LEGALLY OWNED OR**  
28 **LICENSED BY THE QUALIFIED INNOVATION BUSINESS;**

29                   **(III) DOES NOT HAVE ANNUAL REVENUE GREATER THAN**  
30 **\$5,000,000;**

31                   **(IV) HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 5 YEARS;**

1 (V) HAS NOT RECEIVED MORE THAN \$3,000,000 IN  
2 INVESTMENTS;

3 (VI) HAS FEWER THAN 35 FULL-TIME EQUIVALENT EMPLOYEES;

4 (VII) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN THIS  
5 STATE; AND

6 (VIII) DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON ANY  
7 EXCHANGE.

8 (4) (I) DURING THE YEAR IN WHICH AN INVESTMENT IS MADE, A  
9 QUALIFIED INNOVATION BUSINESS SHALL HAVE AT LEAST:

10 1. 51% OF THE QUALIFIED INNOVATION BUSINESS'S  
11 FULL-TIME EQUIVALENT EMPLOYEES EMPLOYED IN THE STATE; AND

12 2. 51% OF THE QUALIFIED INNOVATION BUSINESS'S  
13 PAYROLL PAID TO EMPLOYEES IN THE STATE.

14 (II) THE NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES IS  
15 CALCULATED BY DIVIDING THE TOTAL HOURS PAID IN A YEAR BY THE PRODUCT OF  
16 40 TIMES THE NUMBER OF WEEKS OF PAYROLL INCURRED IN A YEAR.

17 (D) (1) AT LEAST 30 DAYS BEFORE MAKING AN INVESTMENT IN A  
18 QUALIFIED INNOVATION BUSINESS FOR WHICH A QUALIFIED INVESTOR WOULD BE  
19 ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, THE  
20 QUALIFIED INVESTOR SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

21 (2) THE APPLICATION SHALL PROVIDE EVIDENCE THAT:

22 (I) THE QUALIFIED INVESTOR HAS INDIVIDUAL INCOME TAX  
23 LIABILITY IN THE STATE; AND

24 (II) 1. THE QUALIFIED INVESTOR INTENDS TO MAKE AN  
25 INVESTMENT OF AT LEAST \$10,000; OR

26 2. IF THE QUALIFIED INVESTOR IS A PASS-THROUGH  
27 ENTITY OR A MARRIED COUPLE FILING A JOINT RETURN, THE QUALIFIED INVESTOR  
28 INTENDS TO MAKE AN INVESTMENT OF AT LEAST \$20,000.

1           **(3) WITH REGARD TO A QUALIFIED INNOVATION BUSINESS IN WHICH**  
2 **A QUALIFIED INVESTOR INTENDS TO MAKE AN INVESTMENT, THE QUALIFIED**  
3 **INVESTOR MAY NOT:**

4           **(I) BE A PERSON ELECTED OR APPOINTED BY THE GOVERNING**  
5 **BODY OF THE QUALIFIED INNOVATION BUSINESS TO MANAGE THE BUSINESS;**

6           **(II) BE A PERSON HAVING AUTHORITY TO ACT ON BEHALF OF**  
7 **THE QUALIFIED INNOVATION BUSINESS;**

8           **(III) HAVE MORE THAN 20% OF THE VOTING SECURITIES OF THE**  
9 **QUALIFIED INNOVATION BUSINESS, HELD INDIVIDUALLY OR IN COMBINATION WITH**  
10 **FAMILY MEMBERS; OR**

11           **(IV) BE A FAMILY MEMBER OF A QUALIFIED INVESTOR THAT IS**  
12 **PROHIBITED FROM BEING A QUALIFIED INVESTOR UNDER ITEMS (I), (II), OR (III) OF**  
13 **THIS PARAGRAPH.**

14           **(4) THE DEPARTMENT SHALL:**

15           **(I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR CREDITS**  
16 **UNDER THIS SECTION ON A FIRST-COME, FIRST-SERVED BASIS; AND**

17           **(II) WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION, CERTIFY,**  
18 **AS PROVIDED IN THIS SECTION, THE AMOUNT OF ANY APPROVED TAX CREDITS TO A**  
19 **QUALIFIED INVESTOR.**

20           **(5) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE**  
21 **SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR EACH**  
22 **APPROVED INVESTMENT IN A QUALIFIED INNOVATION BUSINESS ELIGIBLE FOR A**  
23 **TAX CREDIT.**

24           **(II) AN INITIAL TAX CREDIT CERTIFICATE SHALL STATE THE**  
25 **MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE QUALIFIED INVESTOR IS**  
26 **ELIGIBLE.**

27           **(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS**  
28 **SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL**  
29 **TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING**  
30 **MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL**  
31 **YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.**

1                   **2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL**  
2 **TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE**  
3 **AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY**  
4 **EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER**  
5 **INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.**

6                   **3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED**  
7 **FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW**  
8 **OTHER THAN UNDER SUBSECTION (F)(5) OF THIS SECTION, THE MAXIMUM CREDIT**  
9 **AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX**  
10 **CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.**

11                   **(6) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN**  
12 **INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED INVESTOR**  
13 **SHALL HAVE 60 CALENDAR DAYS TO MAKE AN INVESTMENT IN A QUALIFIED**  
14 **INNOVATION BUSINESS UNDER THIS SECTION.**

15                   **(II) THE DEPARTMENT MAY GRANT AN EXTENSION OF NOT**  
16 **MORE THAN 30 CALENDAR DAYS OF THE TIME PERIOD UNDER SUBPARAGRAPH (I)**  
17 **OF THIS PARAGRAPH.**

18                   **(III) WITHIN 10 CALENDAR DAYS AFTER THE DATE ON WHICH A**  
19 **QUALIFIED INVESTOR MAKES THE INVESTMENT, THE QUALIFIED INVESTOR SHALL**  
20 **PROVIDE TO THE DEPARTMENT NOTICE AND PROOF OF THE MAKING OF THE**  
21 **INVESTMENT, INCLUDING:**

22                   **1. THE DATE OF THE INVESTMENT;**

23                   **2. THE AMOUNT INVESTED;**

24                   **3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS BY**  
25 **THE QUALIFIED INNOVATION BUSINESS;**

26                   **4. A COMPLETE DESCRIPTION OF THE NATURE OF THE**  
27 **OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED INNOVATION BUSINESS**  
28 **ACQUIRED IN CONSIDERATION OF THE INVESTMENT; AND**

29                   **5. ANY SUPPORTING DOCUMENTATION THE**  
30 **DEPARTMENT MAY REQUIRE.**

31                   **(IV) IF A QUALIFIED INVESTOR DOES NOT PROVIDE THE NOTICE**  
32 **AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN SUBPARAGRAPH**  
33 **(III) OF THIS PARAGRAPH WITHIN 100 CALENDAR DAYS AFTER THE DATE ON WHICH**



1 THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS  
2 SECTION:

3 1. THE DEPARTMENT SHALL RESCIND THE INITIAL TAX  
4 CREDIT CERTIFICATE; AND

5 2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED  
6 CERTIFICATE SHALL REVERT TO THE RESERVE FUND AND SHALL BE AVAILABLE IN  
7 THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER  
8 INITIAL TAX CREDIT CERTIFICATES.

9 (7) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT MADE BY A  
10 QUALIFIED INVESTOR, THE SECRETARY SHALL ISSUE A FINAL TAX CREDIT  
11 CERTIFICATE TO THE QUALIFIED INVESTOR.

12 (E) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT  
13 CERTIFICATE ISSUED UNDER THIS SECTION IS 50% OF THE INVESTMENT IN A  
14 QUALIFIED INNOVATION BUSINESS, NOT TO EXCEED:

15 (I) \$50,000; OR

16 (II) \$100,000 FOR A QUALIFIED INVESTOR THAT IS A MARRIED  
17 COUPLE THAT FILES A JOINT RETURN OR A PASS-THROUGH ENTITY.

18 (2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT CERTIFY  
19 ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE QUALIFIED  
20 INNOVATION BUSINESS THAT IN THE AGGREGATE EXCEED 15% OF THE TOTAL  
21 APPROPRIATIONS TO THE RESERVE FUND FOR THAT FISCAL YEAR.

22 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE  
23 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE QUALIFIED  
24 INVESTOR MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX  
25 FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

26 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

27 (II) THE EXPIRATION OF THE 4TH TAXABLE YEAR AFTER THE  
28 TAXABLE YEAR IN WHICH THE QUALIFIED INVESTOR FIRST CLAIMED THE TAX  
29 CREDIT ALLOWED UNDER THIS SECTION.

30 (F) (1) THERE IS A MARYLAND ANGEL INVESTOR TAX CREDIT RESERVE  
31 FUND THAT IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT  
32 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1           **(2) THE DEPARTMENT SHALL ADMINISTER THE RESERVE FUND.**

2           **(3) (I) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED**  
3 **AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE**  
4 **CREDITED TO THE GENERAL FUND.**

5           **(II) THE RESERVE FUND CONSISTS OF MONEY APPROPRIATED**  
6 **IN THE STATE BUDGET TO THE RESERVE FUND.**

7           **(III) FOR EACH FISCAL YEAR, IT IS THE INTENT OF THE GENERAL**  
8 **ASSEMBLY THAT THE GOVERNOR INCLUDE IN THE BUDGET BILL AN**  
9 **APPROPRIATION OF AT LEAST \$5,000,000 TO THE RESERVE FUND.**

10           **(4) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE**  
11 **FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN**  
12 **APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY**  
13 **THE GENERAL ASSEMBLY.**

14           **(5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY**  
15 **APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.**

16           **(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR**  
17 **QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH FINAL**  
18 **CREDIT CERTIFICATE ISSUED DURING THE QUARTER:**

19                   **A. THE MAXIMUM CREDIT AMOUNT STATED IN THE**  
20 **INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT; AND**

21                   **B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE**  
22 **INVESTMENT.**

23                   **2. ON NOTIFICATION THAT AN INVESTMENT HAS BEEN**  
24 **CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE**  
25 **CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE**  
26 **INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.**

27           **(G) (1) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE**  
28 **RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF WITHIN 1**  
29 **YEAR FROM THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED:**

1           **(I) THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR**  
2 **OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED**  
3 **INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT;**

4           **(II) THE QUALIFIED INVESTOR IS EMPLOYED BY THE QUALIFIED**  
5 **INNOVATION BUSINESS THAT GAVE RISE TO THE CREDIT; OR**

6           **(III) THE QUALIFIED INNOVATION BUSINESS THAT GAVE RISE TO**  
7 **THE CREDIT NO LONGER MAINTAINS ITS HEADQUARTERS AND BASE OF OPERATIONS**  
8 **IN THE STATE.**

9           **(2) THE AMOUNT REQUIRED TO BE RECAPTURED UNDER THIS**  
10 **SUBSECTION IS THE PRODUCT OF MULTIPLYING:**

11           **(I) THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN THE**  
12 **CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE**  
13 **PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST DISPOSED**  
14 **OF; AND**

15           **(II) 1. 100%, IF THE EVENT REQUIRING RECAPTURE OF THE**  
16 **CREDIT OCCURS DURING THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS**  
17 **CLAIMED; OR**

18                           **2. 50%, IF THE EVENT REQUIRING RECAPTURE OF THE**  
19 **CREDIT OCCURS DURING THE FIRST YEAR AFTER THE CLOSE OF THE TAXABLE YEAR**  
20 **FOR WHICH THE TAX CREDIT IS CLAIMED.**

21           **(3) THE QUALIFIED INVESTOR THAT CLAIMED THE CREDIT SHALL**  
22 **PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER PARAGRAPH (2) OF**  
23 **THIS SUBSECTION AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN**  
24 **WHICH THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS.**

25           **(H) (1) THE DEPARTMENT MAY REVOKE ITS INITIAL OR FINAL**  
26 **CERTIFICATION OF AN APPROVED CREDIT UNDER THIS SECTION IF ANY**  
27 **REPRESENTATION IN CONNECTION WITH THE APPLICATION FOR THE**  
28 **CERTIFICATION IS DETERMINED BY THE DEPARTMENT TO HAVE BEEN FALSE WHEN**  
29 **MADE.**

30           **(2) THE REVOCATION UNDER PARAGRAPH (1) OF THIS SUBSECTION**  
31 **MAY BE IN FULL OR IN PART AS THE DEPARTMENT MAY DETERMINE AND, SUBJECT**  
32 **TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE COMMUNICATED TO THE**  
33 **QUALIFIED INVESTOR AND THE COMPTROLLER.**

1           **(3) BEFORE NOTIFICATION TO THE COMPTROLLER, THE QUALIFIED**  
2 **INVESTOR SHALL HAVE AN OPPORTUNITY TO APPEAL ANY REVOCATION TO THE**  
3 **DEPARTMENT.**

4           **(4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE**  
5 **QUALIFIED INVESTOR TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE**  
6 **QUALIFIED INVESTOR HAS ALREADY CLAIMED.**

7           **(I) ON OR BEFORE FEBRUARY 1 OF EACH YEAR FOLLOWING THE YEAR IN**  
8 **WHICH A QUALIFIED INNOVATION BUSINESS RECEIVES AN INVESTMENT, THE**  
9 **QUALIFIED INNOVATION BUSINESS SHALL SUBMIT TO THE DEPARTMENT A REPORT**  
10 **THAT DETAILS THE TOTAL:**

11           **(1) NUMBER AND AMOUNT OF INVESTMENTS RECEIVED DURING THE**  
12 **PRIOR YEAR;**

13           **(2) NUMBER OF DIRECT JOBS CREATED OR SUPPORTED BY**  
14 **INVESTMENTS MADE DURING THE PRIOR YEAR; AND**

15           **(3) AMOUNT OF ADDITIONAL INVESTMENTS LEVERAGED BY**  
16 **INVESTMENTS MADE DURING THE PRIOR YEAR.**

17           **(J) (1) IN ACCORDANCE WITH § 2.5-109 OF THE ECONOMIC**  
18 **DEVELOPMENT ARTICLE, THE DEPARTMENT SHALL REPORT ON THE TAX CREDIT**  
19 **CERTIFICATES ISSUED UNDER THIS SECTION.**

20           **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**  
21 **SUBSECTION SHALL INCLUDE FOR EACH INITIAL TAX CREDIT CERTIFICATE ISSUED:**

22           **(I) THE NAME OF THE QUALIFIED INVESTOR AND THE AMOUNT**  
23 **OF CREDIT ISSUED OR ALLOCATED TO EACH INVESTOR;**

24           **(II) THE NAME AND ADDRESS OF THE QUALIFIED INNOVATION**  
25 **BUSINESS THAT RECEIVED THE INVESTMENT GIVING RISE TO THE CREDIT UNDER**  
26 **THIS SECTION AND THE COUNTY WHERE THE QUALIFIED INNOVATION BUSINESS IS**  
27 **LOCATED; AND**

28           **(III) THE DATES OF RECEIPT AND APPROVAL BY THE**  
29 **DEPARTMENT OF ALL APPLICATIONS FOR INITIAL TAX CREDIT CERTIFICATES.**

30           **(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**  
31 **SUBSECTION SHALL SUMMARIZE FOR THE CATEGORY OF QUALIFIED INVESTORS:**

1                   **(I) THE TOTAL NUMBER OF APPLICANTS FOR INITIAL TAX**  
2 **CREDIT CERTIFICATES UNDER THIS SECTION IN EACH CALENDAR YEAR;**

3                   **(II) THE NUMBER OF APPLICATIONS FOR WHICH INITIAL TAX**  
4 **CREDIT CERTIFICATES WERE ISSUED IN EACH CALENDAR YEAR; AND**

5                   **(III) THE TOTAL INITIAL TAX CREDIT CERTIFICATES**  
6 **AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS.**

7                   **(K) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER,**  
8 **SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND**  
9 **TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF,**  
10 **AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS**  
11 **SECTION.**

12                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
13 1, 2016, and shall be applicable to all taxable years beginning after December 31, 2015, but  
14 before January 1, 2019. It shall remain effective for a period of 7 years and, at the end of  
15 June 30, 2023, with no further action required by the General Assembly, this Act shall be  
16 abrogated and of no further force and effect.