SENATE BILL 19

Q3, C8 1lr0102 CF 1lr0113 (PRE-FILED) By: Chair, Budget and Taxation Committee (By Request - Departmental -**Commerce**)

Requested: October 22, 2020 Introduced and read first time: January 13, 2021 Assigned to: Budget and Taxation

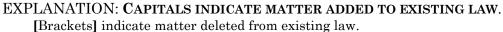
A BILL ENTITLED

1 AN ACT concerning

$\mathbf{2}$ **Economic Development – Biotechnology Investment Incentive Tax Credit** 3 **Program – Alterations**

- 4 FOR the purpose of altering eligibility for the Biotechnology Investment Incentive Tax Credit Program by altering the definition of "qualified Maryland biotechnology $\mathbf{5}$ 6 company"; stating the purpose of the program; altering the calculation of the tax 7 credit under the program; altering the maximum percentage of the Maryland 8 Biotechnology Investment Tax Credit Reserve Fund that a single qualified Maryland 9 biotechnology company may receive in a fiscal year; providing for the application of 10 this Act; and generally relating to the Biotechnology Investment Incentive Tax Credit Program. 11
- 12BY repealing and reenacting, without amendments,
- 13Article – Tax – General
- 14 Section 10-725(a)(1)
- 15Annotated Code of Maryland
- (2016 Replacement Volume and 2020 Supplement) 16
- 17BY repealing and reenacting, with amendments,
- 18 Article – Tax – General
- 19 Section 10–725(a)(7), (b), (d)(1) and (2), and (j)
- 20Annotated Code of Maryland
- 21(2016 Replacement Volume and 2020 Supplement)
- 22SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 23
- That the Laws of Maryland read as follows:
- 24

Article - Tax - General





 $\mathbf{2}$ **SENATE BILL 19** 1 10 - 725. $\mathbf{2}$ In this section the following words have the meanings indicated. (a) (1)3 (i) "Qualified Maryland biotechnology company" (7)means а 4 biotechnology company that: $\mathbf{5}$ 1. has its headquarters and base of operations in this State; has fewer than 50 full-time employees; 6 2. 7 3. except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than 12 years; 8 9 4. does not have its securities publicly traded on any 10exchange; [and] 11 5. has been certified as a biotechnology company by the 12Department; AND 136. HAS RECEIVED IN THE AGGREGATE NOT MORE THAN **\$7,000,000** IN TAX CREDITS UNDER THIS SECTION. 1415(ii) "Qualified Maryland biotechnology company" includes [: 16 a company that has been in active business for up to 15 1. years if the Department determines that the company requires additional time to complete 17the process of regulatory approval; 18 19 2. a company that has been in active business no longer than 2012 years from the date the company first received a gualified investment under this section; 21or 22a company that, within 2 months of the receipt of the 3. 23investment, has met the requirements of subparagraph (i) of this paragraph. THE BIOTECHNOLOGY INVESTMENT INCENTIVE TAX CREDIT IS 24(b) (1) INTENDED TO FOSTER THE GROWTH OF MARYLAND'S BIOTECHNOLOGY INDUSTRY 2526BY INCENTIVIZING INVESTMENT IN EARLY STAGE COMPANIES WITH THE GOAL OF 27INCREASING THE NUMBER OF COMPANIES DEVELOPING BIOTECHNOLOGIES IN 28MARYLAND, INCREASING OVERALL INVESTMENTS IN THE BIOTECHNOLOGY 29SECTOR, AND INCREASING THE NUMBER OF INDIVIDUAL INVESTORS ACTIVELY INVESTING IN MARYLAND'S LIFE SCIENCES COMPANIES. 30

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1 [(1)] (2) Subject to paragraphs [(2) and] (3) AND (4) of this subsection 2 and subsections (d) and (e) of this section, for the taxable year in which an investment in a 3 qualified Maryland biotechnology company is made, a qualified investor may claim a credit 4 against the State income tax in an amount equal to the amount of tax credit stated in the 5 final credit certificate approved by the Secretary for the investment as provided under this 6 section.

7 [(2)] (3) To be eligible for the tax credit described in paragraph [(1)] (2) 8 of this subsection, the qualified investor shall be:

9 (i) for a company, duly organized and in good standing in the 10 jurisdiction under the laws under which it is organized;

(ii) for a company, in good standing and authorized or registered to
do business in the State;

(iii) current in the payment of all tax obligations to the State or anyunit or subdivision of the State; and

(iv) not in default under the terms of any contract with, indebtedness
to, or grant from the State or any unit or subdivision of the State.

17 [(3)] (4) To be eligible for the tax credit described in paragraph [(1)] (2) 18 of this subsection, the qualified investor may not, after making the proposed investment, 19 own or control more than 25% of the equity interests in the qualified Maryland 20 biotechnology company in which the investment is to be made.

21 (d) (1) The tax credit allowed in an initial tax credit certificate issued under 22 this section is:

(i) except as provided in item (ii) of this paragraph, [50%] 33% of
the investment in a qualified Maryland biotechnology company, not to exceed \$250,000; or

(ii) if a qualified Maryland biotechnology company is located in
Allegany, Dorchester, Garrett, or Somerset counties, [75%] 50% of the investment in the
qualified Maryland biotechnology company, not to exceed \$500,000.

28 (2) During any fiscal year, the Secretary may not certify eligibility for tax 29 credits for investments in a single qualified Maryland biotechnology company that in the 30 aggregate exceed [15%] **10%** of the total appropriations to the Maryland Biotechnology 31 Investment Tax Credit Reserve Fund for that fiscal year.

(j) If a company receives an investment under subsection [(a)(7)(ii)3] (A)(7)(II) of this section and fails to satisfy the requirements for a qualified Maryland biotechnology company within 2 months, the Department shall revoke any final tax credit certificates that have been issued and recapture any tax credits already claimed by the qualified 1 investor.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 3 1, 2021, and shall be applicable to all initial credit certificates issued after June 30, 2021.