Evaluation of the More Jobs for Marylanders Program



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Evaluation of the More Jobs for Marylanders Program

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Department of Legislative Services
Office of Policy Analysis
Maryland General Assembly

Victoria L. Gruber
Executive Director

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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 an evaluation of the More Jobs for Marylanders income and sales tax credits by July 1, 2021.

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

- **Chapter 1** provides an overview of the Tax Credit Evaluation Act and the More Jobs for Marylanders Program.

- **Chapter 2** provides a discussion of the program's objectives and goals.

- **Chapter 3** provides an overview of the program's legislative history.

- **Chapter 4** discusses the State costs of the income tax credit.

- **Chapter 5** provides information on income tax credit activity.

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- **Chapter 6** provides information on sales and use tax refund activity and other program benefits.

- **Chapter 7** discusses design and implementation issues and the effectiveness of the tax credit program.

- **Chapter 8** summarizes the findings of the report and discusses recommended changes to the tax credit program.

During the 2021 interim and 2022 session, the General Assembly reviewed a draft of this report. In addition, the Revenues Subcommittee of the House Ways and Means Committee held a public briefing on the report. In the 2022 session, the General Assembly passed Senate Bill 391 (Chapter 136), which as introduced would have extended the program for five additional years without substantive change. As enacted, Chapter 136 extends the program for two additional years so that the Department of Commerce (Commerce) may certify projects through May 31, 2024. The Act also modifies the program for projects certified beginning June 1, 2022, by (1) altering the wages that must be paid to employees filling qualified positions for newly enrolled business entities to 150% of the State minimum wage; (2) limiting benefits for projects in Tier II areas to five years; and (3) limiting the benefit to only an income tax credit that is reduced as compared to current law. For projects filing a notice of intent beginning June 1, 2022, the Act increases the number of new employees that must be hired to qualify for benefits. Finally, the Act reduces the maximum amount of income tax credit certificates that Commerce may issue each year from $9.0 million to $5.0 million with respect to certain qualified business entities and codifies the purpose of the program. As enacted, DLS estimates that the proposed extension may require a total general fund expenditure increase of $138.0 million in fiscal 2025 through 2036.

We wish to acknowledge the cooperation and assistance provided by Commerce. DLS trusts that this report will be useful to members of the General Assembly in future deliberations about the More Jobs for Marylanders income and sales tax credits.

Sincerely,

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

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 was 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 More Jobs for Marylanders Program was evaluated July 1, 2021.

Chapter 149 of 2017 established the More Jobs for Marylanders Program, which is administered by the Maryland Department of Commerce (Commerce) and provides State income tax, sales tax, property tax, and fee benefits to certain businesses that create and maintain a minimum number of qualified jobs. Eligibility for specific benefits is determined by the type of business, its location, and whether or not it is a new business. Generally, a business must operate or conduct a trade or business that is primarily engaged in manufacturing, or else be located in a federal opportunity zone, and not be otherwise excluded by law.

The Department of Legislative Services (DLS) makes several findings and recommendations related to the More Jobs for Marylanders Program, 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 More Jobs for Marylanders 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 the following State tax credits: One Maryland; enterprise zone; More Jobs for Marylanders; businesses that create new jobs; and the Opportunity Zone Enhancement program.

Program Will Mandate Significant Future Funding

The More Jobs for Marylanders income tax credit and sales and use tax refunds are subject to an annual appropriation and an annual limit on the amount of tax credits and refunds that Commerce may award in each fiscal year. However, each new applicant is entitled to a 10-year tax benefit, creating unfunded liabilities, which will require future year appropriations. These mandated appropriations will limit the ability of the General Assembly to adjust the program's fiscal impact.

Given the cumulative impact of the program, the appropriations that are necessary to cover income tax credit program activity will continue to grow as each additional year of applicants is approved. Commerce projects that, by fiscal 2024, the required annual income tax appropriation will be slightly over $20.0 million and, through fiscal 2024, a total of $76.0 million will be appropriated for the incentive. These appropriations only reflect applications received through October 2020 and largely do not reflect the program's recent expansion for eligible businesses located within federal opportunity zones. As program awareness increases, participation by nonmanufacturing businesses will rise, leading to a significant addition in the program's fiscal impact.

Extending the program beyond its June 30, 2022 termination date will add additional years of participants, thereby significantly increasing the program's future mandated funding. Although Commerce has in the limited history of the program awarded far fewer than the annual authorized amount, each additional year the program is extended will authorize up to $100.0 million in additional income tax credits and sales and use tax refunds.

Each year, Commerce must report to the Governor and the General Assembly on the amount of tax credits under the program necessary to maintain the current level of manufacturing activity in the State, attract new manufacturing activity to the State, and attract new businesses to and encourage the expansion of existing businesses within federal opportunity zones. The Governor's annual reserve fund appropriation must equal or exceed the amount reported by Commerce necessary to achieve these goals. Achieving these goals would require additional significant, annual commitments of State resources in light of the tax credit's generous incentives.

Recommendation: In order to address the long-term funding mandated by the program in future years, DLS recommends that the General Assembly consider statutory changes to reduce the program's fiscal cost, including for future applicants a reduction in the income tax credit's value and the number of years the credit may be claimed and by further restricting eligibility to certain businesses.

In addition, the General Assembly should consider allowing the program to terminate as provided under current law.

Recommendation: DLS recommends eliminating the statutory requirement that the Governor include in the annual budget bill an appropriation that is equal to the minimum level Commerce reports is necessary to promote/support manufacturing and opportunity zone business activity. In addition, DLS recommends eliminating Commerce's current reporting requirement and instead require the department to report annually specified information about the program's fiscal impact, including the amount of funding that will be required in the next fiscal year to offset the revenue losses resulting from current program applicants and a five-year projection of the program's likely fiscal impact.

Recommendation: DLS recommends that the General Assembly clarify in

statute which income tax certificates count toward the authorization limit and how much unused authority rolls over between fiscal years. DLS also recommends that Commerce adopt regulations to clarify how projects will be prioritized if demand exceeds available authority.

Program Geographic Designations and Incentives Are Overly Complicated

The More Jobs for Marylanders Program has multiple geographic eligibility standards – Tier I counties that qualify under unemployment/income standards, up to three additional Tier I counties designated by Commerce, and Tier I areas designated as federal opportunity zones. The program defines a Tier II area as an area not designated as a Tier I area. The program also has different eligibility standards for new and existing businesses and for different types of businesses. These requirements are more complicated compared to similar State tax credit programs.

In addition to the income tax credit, new businesses within Tier I areas qualify for a State property tax credit, a refund of certain sales and use taxes, and a waiver of corporate filing fees. In addition to the sales and use tax refund available under the program, manufacturers qualify for several other sales and use tax exemptions. According to Commerce, one company is eligible for the sales and use refund and corporate filing fee waiver but has not claimed either benefit. The State Department of Assessments and Taxation did not respond to requests for information on the implementation of the property tax and corporate filing fee waiver.

The program's geographic designations do not appear to have meaningfully influenced tax credit activity. Tier II counties have reported a majority of qualified positions and received most of the tax credits, both of which are slightly greater than their share of the State's total manufacturing employment. The program has only attracted 2 new manufacturing businesses, compared to 40 existing businesses. New manufacturing facilities are capital intensive; in most Tier I counties, it is more beneficial to claim the One Maryland tax credit than the combined incentives of the More Jobs for Marylanders Program.

Recommendation: DLS recommends reducing the program's complexity by eliminating the program's Tier I and Tier II designations and the additional sales and use tax refund, State property tax credit, and waiver of corporate filing fees available to new businesses.

Recommendation: If the General Assembly decides not to terminate the sales and use tax refund, DLS recommends Commerce adopt implementing regulations. The regulations should clarify the procedures related to distributing refunds and the application process and requirements.

Smaller-sized Businesses Are Underrepresented in the Program

In previous evaluations of other State tax credit programs, DLS has found that most program benefits are awarded to large, established multistate corporations. Of the businesses that do participate, tax credits are skewed towards the largest businesses, as these larger employers typically pay higher wages and undertake larger projects.

DLS also finds that most of the More Jobs for Marylanders income tax credits have been awarded to large, established corporations. Two companies received 40% of all credits, and the seven companies that received a tax credit of at least $100,000 account for two-thirds of all tax credit awards.

About 95% of all firms within Maryland employ 100 or fewer individuals; however, these firms account for only one-third of all More Jobs for Marylanders projects and received only 17% of all income tax credits. Small businesses had two qualifying projects and received about 1% of all tax credits.

Although smaller employers are underrepresented, the More Jobs for Marylanders Program has attracted greater participation by smaller employers compared to other tax credit programs.

Recommendation: Given the General Assembly's interest in small businesses and their lack of participation in most State tax credit programs, the More Jobs for Marylanders Program should limit eligibility to smaller employers. This will also improve the program's effectiveness by reducing its overlap with existing tax credit programs.

Program Does Not Specify an Objective

Chapter 149 established the More Jobs for Marylanders Program but did not specify a specific goal or intent for the credit. In addition, there is no intent specified within program regulations. The incentives designed at the program's inception aimed to promote new and existing manufacturing businesses. In 2019, the program expanded to include a new, substantially different objective – the promotion of a diverse range of businesses within federal opportunity zones – to be achieved by using the same incentives designed for a different objective.

In previous tax credit evaluations, DLS found that using the same tax credit to fulfill different objectives is less effective compared to a program that provides adequate flexibility and is tailored to the variation in local conditions and needs.

The incentives provided by the More Jobs for Marylanders Program are generous and likely to eventually attract businesses located within opportunity zones. However, an incentive originally designed to assist manufacturing located in geographically different areas of the State will likely not be equally effective at promoting business activity within opportunity zones.

Recommendation: DLS recommends the General Assembly establish in statute the objective of the program.

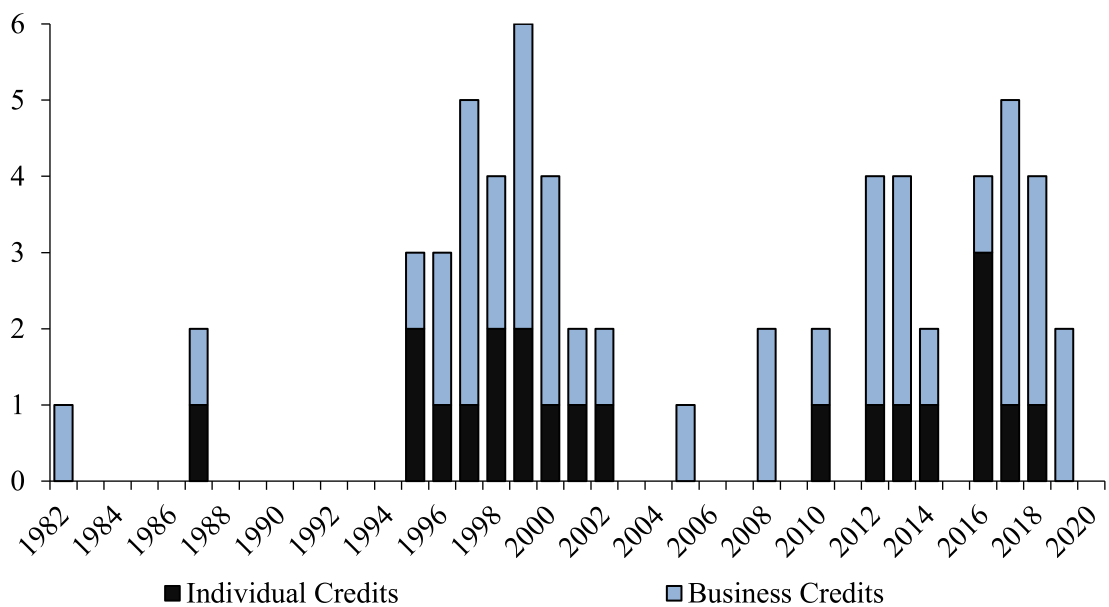
Chapter 1. Overview and Background of the More Jobs for Marylanders Program

Overview

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. Reporting information for State tax credits varies. Under certain tax credit programs, agencies are required to publish specified information about the credit on an annual basis. Every other year, the Department of Budget and Management (DBM) is required to prepare a statement of the estimated amount by which exemptions from all types of State taxation reduce revenues.

Prior to 1995, there was 1 tax credit for individuals (earned income credit) and 2 primarily business tax credits (enterprise zone and Maryland-mined coal credits). Since 1995, 36 tax credits primarily for businesses and 19 tax credits primarily for individuals have been established. This includes temporary and expired tax credits. **Exhibit 1.1** illustrates the total number of tax credits established in each year.

Exhibit 1.1
Tax Credits Created Each Year
1982-2020



Source: Department of Legislative Services

The fiscal impact of these tax credits has increased from a little less than $50 million in tax year 1994 to about $300 million in tax year 2019. Most of this increase has been due to an increase in tax credits for individuals, which have increased fivefold since 1994, primarily due to growth in the earned income credits. A total of 16 tax credits will terminate within the next 5 years; extending these tax credits will decrease general funds by a total of $518.0 million over the next 10 fiscal years.

Although the reduction in State revenues from tax credits is generally incorporated in the State budget, many tax credits are not subject to an annual appropriation as required for other State programs. However, most of the larger business credits are subject to an aggregate annual limitation that limits fiscal uncertainty. This limitation is typically either an annual budget appropriation, such as the historic revitalization and biotechnology incentive investment tax credits, or limitation on the maximum annual amount of credits that can be awarded such as under the research and development, film production activity, and job creation tax credits.

Most of these limitations became a component of business tax credits after a significant, and unexpected, increase in the fiscal cost of the Heritage Structure Rehabilitation Tax Credit Program (since renamed as the historic revitalization tax credit). Of the major business tax credits, only the One Maryland tax credit lacks either an aggregate annual limitation or is subject to an annual appropriation. In addition, as discussed in this evaluation and the reevaluation of the enterprise zone program, the reports include recommendations for increasing the fiscal certainty of these programs, as the budget appropriations do not limit program activity in a similar manner as other budgeted tax credits.

Tax Credit Evaluation Act

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, DBM, 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 altered the tax credit evaluation process by requiring the agency that administers a tax credit subject to evaluation to provide information to and otherwise cooperate with DLS and the evaluation committee. The Act also altered the date by which DLS must publish an evaluation of the credit from October 31 to November 15 and the date by which the evaluation committee must hold a public hearing on the evaluation report from December 14 to December 31. Additionally, the Act eliminated the requirement that, in lieu of a specified evaluation date, a credit must be evaluated in the year preceding the termination date of the credit.

Prior to July 1, 2019, the committee reviewed the following credits: enterprise zone; One Maryland; earned income, film production activity; sustainable communities (historic revitalization); businesses that create new jobs; job creation; research and development; biotechnology investment incentive; and Regional Institution Strategic Enterprise (RISE) Zone Program.

Current law specifies that the following credits are required to be reviewed by the date indicated:

- ***July 1, 2021:*** More Jobs for Marylanders income and sales tax credits; and

- ***July 1, 2023:*** Cybersecurity investment incentive and purchase of cybersecurity technology or service tax credits.

Lastly, Chapter 582 also increased the time period from five to seven years that a tax credit designated for evaluation under the Tax Credit Evaluation Act is subject to reevaluation. Accordingly, the committee must conduct a reevaluation of the credits described above beginning with the enterprise zone and One Maryland tax credits, which must be reevaluated by July 1, 2021.

More Jobs for Marylanders Program

Chapter 149 of 2017 established the More Jobs for Marylanders Program, which is administered by the Department of Commerce (Commerce) and provides State income tax, sales tax, property tax, and fee benefits to certain businesses that create and maintain a minimum number of qualified jobs. Eligibility for specific benefits is determined by the type of business, its location, and whether or not it is a new business. Generally, a business must operate or conduct a trade or business that is primarily engaged in manufacturing, or else be located in a federal opportunity zone, and not be otherwise excluded by law. A business within a "Tier I Area" must create at least 5 qualified positions, and a business within a "Tier II Area" must create at least 10 qualified positions – additional requirements apply to both areas. Specific benefits are as follows:

- ***Tier I New Manufacturing Business:*** (1) a refundable State income tax equal to 5.75% of the wages paid to each qualified position; (2) a 100% credit against certain State property taxes; (3) a refund of certain sales and use taxes; and (4) a waiver corporate filing fees.

- ***Tier I or Tier II Existing Manufacturing Business:*** A refundable State income tax equal to 5.75% of wages paid to each qualified position.

- ***Tier I Opportunity Zone New Nonmanufacturing Business:*** (1) A refundable State income tax equal to 5.75% of wages paid to each qualified position; (2) a credit against certain State property taxes that is equal to the lesser of 100% of the tax imposed or

$250 per qualified position; (3) a refund of certain sales and use taxes; and (4) a waiver of corporate filing fees.

- ***Tier I Opportunity Zone Existing Nonmanufacturing Business:*** A refundable State income tax equal to 5.75% of wages paid to each qualified position.

Businesses excluded from program eligibility are (1) refiners; (2) those that provide adult entertainment; (3) those that engage in retail activities, except for grocery stores located in opportunity zones; and (4) those primarily engaged in the sale or distribution of alcoholic beverages.

Tier I Areas include Baltimore City and Allegany, Baltimore, Caroline, Cecil, Dorchester, Garrett, Kent, Prince George's, Somerset, Washington, Wicomico and Worcester counties. Tier I Areas also include opportunity zones located in any Maryland county. Tier II Areas are any areas that are not Tier I Areas. Counties must meet specified income or unemployment criteria, or be designated by Commerce, to be considered a Tier I Area. Opportunity zones are census tracts designated by the State as part of a federal program established by the federal Tax Cuts and Jobs Act of 2017.

Commerce may certify businesses as eligible for the program through June 1, 2022. Commerce may annually award up to $9.0 million in credits against the State income tax and up to $1.0 million in sales and use tax refunds. If other requirements continue to be met, a business is eligible for 10 consecutive years of benefits. The Governor must appropriate sufficient funds to two related reserve accounts each year, subject to specified requirements. Therefore, each program certification year can create $100 million in future amounts that must be appropriated to reserve funds through the annual budget process. There is no limit on State property tax credits and corporate filing fee exemptions, but it is expected that these provisions will comprise a minor part of the program's fiscal impact.

In addition to providing tax benefits to businesses that meet program requirements and are certified by Commerce, the program also allows a manufacturer located in the State to claim increased expensing amounts under the State income tax by conforming State law to the maximum aggregate costs of expensing allowed under Section 179 of the Internal Revenue Code (IRC) and to claim any bonus depreciation amounts provided under Section 168(k) of IRC. These benefits apply if the property was placed in service on or after January 1, 2019.

Chapter 2. Intent and Objectives of the More Jobs for Marylanders Program

Program Does Not Specify a Goal or Objective

Chapter 149 of 2017 established the More Jobs for Marylanders Program but did not specify a specific goal or intent for the credits. In addition, there is no intent specified within program regulations.

Without clearly defined goals and objectives, it is difficult to identify the metrics and data needed to evaluate the effectiveness of the tax credits. The Tax Credit Evaluation Act requires the Department of Legislative Services (DLS) to evaluate whether the original intent of the tax credit is still appropriate; however, there is no statutory requirement for tax credits to include an intent. Other states require the intent of tax incentives to be clearly expressed.

Program Benefits Cited by Department of Commerce and Program Advocates

While there is no intent stated in statute or regulations, the Department of Commerce notes on its website that the program "promotes the growth of manufacturing in Maryland by providing tax incentives for manufacturing job creation, encourages manufacturers to invest in new equipment through accelerated and bonus depreciation, and funds job training and apprenticeship programs to help strengthen Maryland's workforce." Likewise, in its 2017 written testimony, the department noted that the tax benefits offered under the program "will promote the creation of new manufacturing jobs in Maryland by providing incentives to manufacturers that establish a new manufacturing facility in the state or existing Maryland manufacturers that expand their employment, if the location or expansion is in an area of the state with high unemployment and low per capita income." The department noted that Governor Lawrence J. Hogan, Jr.'s Administration has "prioritized" the manufacturing industry, which it described as "a catalyst of widespread economic development – supporting the community by growing businesses needed to support the supply chain, including companies providing raw materials, transportation services, and the local service industry." The department also noted that the legislation "will prioritize small and medium sized manufacturers" and that its incentives would "allow companies to redirect resources to invest in capital." Other proponents of the legislation similarly noted that the new program was "a comprehensive program aimed at rejuvenating the manufacturing industry in the state of Maryland."

The department stated that "Maryland's challenged jurisdictions could be boosted by the influx and expansion of manufacturing employers to their areas." The Maryland Manufacturing Extension Partnership (MDMEP) indicated that companies in distressed areas of the State "are having difficulty finding and hiring employees who are job ready." MDMEP asserted that the program would provide manufacturers "with an incentive to locate and expand in the depressed areas and offset the higher cost of hiring and training new employees in these depressed communities." Continuing, MDMEP noted that "the inclusion of existing businesses in the bill is particularly [important] as much of the state's economic growth is not from new companies moving in but rather through expansion of existing businesses. The proposed approach reduces the risk of new hires and incentivizes action in employment." The Maryland Rural Counties Coalition stated that the legislation would "help rural areas compete on more equal footing with wealthier jurisdictions." The Cumberland Economic Development Corp wrote that "the creation of jobs that pay family supporting wages and the incentives this bill provides" would help continue the growth of manufacturing in Cumberland and the entire State. Baltimore City Council President Bernard C. "Jack" Young wrote that the program "has the potential to significantly benefit Baltimore City by encouraging the growth of business and creation of good jobs."

In its advocacy for the extension and expansion of the program in 2019, the Hogan Administration testified that the More Jobs for Marylanders Program goal "was not just to encourage new jobs, but to spur job growth in high-unemployment areas where those [new jobs] would have the greatest impact." The Administration indicated that the 2019 legislation would "build on the existing success of this program in order to enhance Maryland's federal opportunity zones and bring job creation across industry sectors to these regions of the State." Noting that the poverty rate in Maryland's 149 opportunity zones is almost 2.5 times higher than the statewide average at 22.9%, with 27% of households earning less than $25,000, the Administration indicated that the expanding eligibility for the program's incentives to these areas would incentivize job creation and target investment in these low-income communities. The Administration also indicated that expanding the program to include businesses located in opportunity zones would "leverage federal benefits to create a powerful tool for economic development and job creation in Maryland communities that need it most." These remarks were echoed by numerous other proponents of the legislation.

Several Other State Tax Credits Have Similar Goals

DLS notes that several of the benefits described above are already addressed in other similar State tax credit programs as a number of geographically targeted State tax credits aim to promote economic development and employment within areas identified as being economically distressed. In addition, manufacturers receive a significant share of State subsidies in several other State tax credit programs. Chapter 7 of this evaluation provides additional information on the overlap of the More Jobs for Marylanders Program with several other existing State tax credit programs.

Chapter 3. Evolution of the More Jobs for Marylanders Program

During the brief passage of time since its inception, the More Jobs for Marylanders Program has undergone several alterations. This chapter provides an overview of the program's evolution from its establishment to the alterations enacted by legislation in 2019 and 2020.

Establishment of the More Jobs for Marylanders Program

Chapter 149 of 2017 established the More Jobs for Marylanders Program, which is administered by the Department of Commerce (Commerce). Commerce must administer the application, approval, and certification process for businesses to receive benefits under the program. In addition, Commerce is required to submit certain reports to the Governor and the General Assembly detailing specified information about the program.

Eligibility

In order to qualify for the program as initially established in 2017, a business was required to operate or conduct a trade or business that is primarily engaged in manufacturing; however, refiners are excluded from participating in the program. Before taking the action that qualifies the business for the program, a business must notify Commerce of its intent to seek certification of an eligible project. A business must offer an ongoing job skills enhancement training program or postsecondary education program that is approved by Commerce. A business within a Tier I county must create at least 5 qualified positions, and a business within a Tier II county must create at least 10 qualified positions. Within 12 months of notifying Commerce of its intent to seek designation of an eligible project, a business entity must begin hiring employees to fill the qualified positions.

The income tax credit and sales and use tax refund may not be claimed by an existing business entity that moves a facility to another county on or after June 1, 2017. Chapter 149 prohibited Commerce from certifying a business as eligible for the program after May 31, 2020. A business may not continue to qualify for the program if the number of qualified positions decreases below the total number of positions reported in the first year in which the business qualified.

Tier I and Tier II County Designations

Businesses located in counties designated by Commerce as Tier I counties qualify for additional incentives and lower minimum job creation requirements. Tier I counties are counties with:

- 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.

Tier I counties also include any counties that no longer meet the unemployment/income standards but have met at least one of the criteria at some point in the preceding 24-month period. Baltimore City and Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, and Worcester counties qualify under these standards. These qualifications are identical to the requirements that are necessary to be considered a Tier I county under the One Maryland economic development tax credit.

For the More Jobs for Marylanders Program only, Tier I counties also include up to three jurisdictions designated by Commerce that do not qualify due to the unemployment/income standards. Commerce has designated Baltimore, Cecil, and Prince George's counties.

Any county that is not designated as a Tier I county is considered a Tier II county.

Incentives

Under Chapter 149, a qualifying new manufacturing business in a Tier I county is entitled to the following benefits for up to 10 consecutive years.

- ***Income Tax Credit:*** A qualified business entity may claim a credit against the State income tax equal to the total wages paid for the qualified positions multiplied by 5.75%. If the value of the credit exceeds the tax liability imposed in the year, the business can claim a refund in the amount of the excess. Tax credits can be claimed beginning in tax year 2018.

- ***Sales and Use Tax Refund:*** All personal property and/or services purchased by a qualifying business entity for use at a manufacturing facility may qualify for a refund of the State sales and use tax for purchases made on or after January 1, 2018.

- ***State Property Tax Credit:*** Chapter 149 exempted 100% of the State property tax imposed on the real property that is owned by a qualifying business and located at the qualifying manufacturing facility beginning in fiscal 2018. The State Department of Assessments and Taxation (SDAT) must calculate the value of the credit in each year.

- ***Corporate Filing Fees:*** A qualified business entity is exempt from all business recording, filing, or special fees collected by SDAT.

The income tax credit may be claimed for up to 10 years by an existing manufacturing business operating an eligible business in either a Tier I or Tier II county if the business creates the required number of qualified positions at the eligible manufacturing facility.

Reserve Funds

Chapter 149 of established two reserve funds – the More Jobs for Marylanders Tax Credit Reserve Fund and the More Jobs for Marylanders Sales and Use Tax Refund Reserve Fund – for the provision of income tax credit and sales and use tax refunds under the program, respectively.

The total amount of initial tax credit certificates issued by Commerce in each fiscal year generally cannot exceed $9.0 million. Beginning in fiscal 2019, the Governor must appropriate money to the More Jobs for Marylanders Tax Credit Reserve Fund. The Governor must include an amount that is necessary to maintain the current level of manufacturing activity in the State and attract new manufacturing activity to the State. Any amount of money in the fund that is not expended in the fiscal year remains in the fund and must be rolled over into the next fiscal year.

The total amount of sales and use tax refunds issued by Commerce in each fiscal year generally cannot exceed $1.0 million. Beginning in fiscal 2019, the Governor must appropriate money to the More Jobs for Marylanders Sales and Use Tax Refund Reserve Fund. Any amount of money in the fund that is not expended in the fiscal year is transferred to the More Jobs for Marylanders Tax Credit Reserve Fund.

Regulation and Report Requirements

On or before December 31 each year, Commerce must report to the Governor and the General Assembly specified information on the economic development programs administered by the department, including the More Jobs for Marylanders Program. The report must include, if applicable, with respect to each program: (1) the number of jobs created; (2) the number of jobs retained; (3) the estimated amount of State revenue generated; (4) the status of any special fund; and (5) any additional information required by the department through regulations. In addition, on or before December 1 each year, Commerce must report to the General Assembly on the qualified business entities receiving final certification under the program in the preceding fiscal year. Lastly, on or before July 1 each year, Commerce must report to the Governor and the General Assembly on the amount of tax credits under the program necessary to (1) maintain the current level of manufacturing activity in the State; (2) attract new manufacturing activity to the State; and (3) attract new businesses to and encourage the expansion of existing businesses within opportunity zones in the State.

The Act authorized the Secretary of Commerce to establish by regulation any other requirements necessary to implement the bill. In addition, the Act required Commerce and the Comptroller to jointly adopt regulations to implement the income tax credit and sales and use tax refund application, approval, and monitoring processes. As of December 2020, these regulations have not been adopted.

Extension and Expansion of More Jobs for Marylanders Program

Enacted on December 22, 2017, the federal Tax Cuts and Jobs Act of 2017 established the qualified opportunity zones program to incentivize private investment in distressed communities. Under the Act, states may nominate up to 25% of specified low-income census tracts for designation by the U.S. Treasury as opportunity zones. The program offers three types of federal capital gains tax incentives for qualified investments within the zones. These incentives generally impact the calculation of a taxpayer's State income, thereby also reducing the taxpayer's State income taxes. In 2018, Maryland designated a total of 149 zones.

Chapter 211 of 2019 both extended and expanded the More Jobs for Marylanders Program. The Act extended, from June 1, 2020, to June 1, 2022, the authority of Commerce to certify a business entity for participation in the program. This two-year extension authorized up to \$200.0 million in additional income tax credits and sales and use tax refunds.

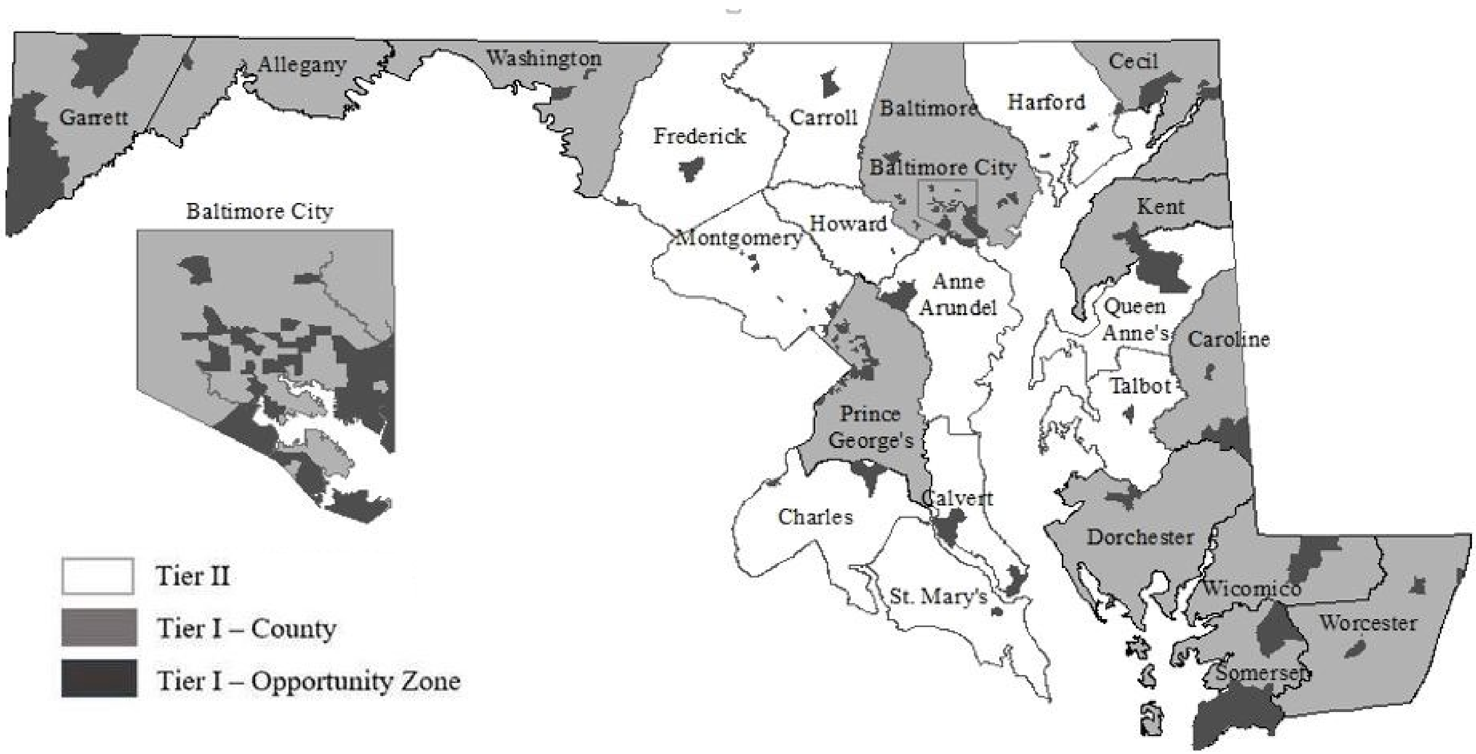
In addition, the Act expanded eligibility criteria for the program to include businesses in opportunity zones. The Act altered references from "Tier I county" for purposes of the program to "Tier I area" which includes opportunity zones designated under the federal Internal Revenue Code (IRC). **Exhibit 3.1** shows the existing eligible Tier I counties and the opportunity zones made eligible for Tier I benefits under the bill. **Exhibit 3.2** summarizes the requirements that must be met to claim program benefits.

The Act expanded eligibility for Tier I incentives to include new businesses located within opportunity zones; however, refiners (an existing ineligible business), providers of adult entertainment, or businesses primarily engaged in retail activities (except for grocery stores) or the sale or distribution of alcoholic beverages were prohibited from qualifying for benefits under the expanded program. Similar to expanded manufacturing businesses located within Tier I or Tier II areas, the Act authorized expanded businesses located within opportunity zones to receive a refundable credit against the State income tax of 5.75% of wages for each qualified position. Unlike businesses located in Tier I counties or counties designated by Commerce, the Act subjected businesses only located in opportunity zones to enhanced requirements for qualified position salaries: a \$50,000 minimum as opposed to 120% of the State minimum wage.

In light of the program's expansion, Chapter 211 also added an additional requirement to the program's annual appropriation. The Governor must include in the annual budget bill an appropriation that includes the amount that Commerce reports is necessary to attract new businesses to and encourage the expansion of existing businesses within federal opportunity zones.

Exhibit 3.1

More Jobs for Marylanders – Tier I and Tier II Areas



Source: Department of Legislative Services

Exhibit 3.2
Program Benefits by Geography and Business Type

Business Type	Tier I Counties/Designated Counties: Opportunity Zone	Tier I Counties/Designated Counties: Not an Opportunity Zone	All Other Counties: Opportunity Zone	All Other Counties: Not an Opportunity Zone
Manufacturer				
New	All Benefits	All Benefits	All Benefits	None
Existing	Income Tax Credit	Income Tax Credit	Income Tax Credit	Income Tax Credit
All Other Businesses				
New	All Benefits*	None	All Benefits*	None
Existing	Income Tax Credit	None	Income Tax Credit	None

Tier I Counties: Baltimore City and Allegany, Baltimore, Caroline, Cecil, Dorchester, Garrett, Kent, Prince George's, Somerset, Washington, Wicomico, and Worcester counties.

All Benefits: Income tax credit, sales tax refund, State property tax credit, waiver of corporate filing fees

* State property tax credit is limited to $250 per qualifying position

Source: Department of Legislative Services

Recent Eligibility Alterations

Chapter 38 of 2020, in part, altered eligibility for the More Jobs for Marylanders Program by prohibiting golf courses, country clubs, tanning salons, and bail bondsmen from participation in the program. This prohibition mirrors federal limitations for eligibility for qualified redevelopment bonds and opportunity zone businesses. Sections 144(c)(6)(B) and 1400Z-2(d)(3) of IRC provide that private and commercial golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, racetracks or other facilities used for gambling, or stores the principal business of which is the sale of alcoholic beverages for consumption off premises are ineligible for benefits under these federal programs.

Chapter 4. Program Fiscal Impact

Program Appropriations Do Not Provide Program Fiscal Certainty

Most of the State's major business tax credits are subject to an aggregate annual limitation, either through budget appropriation or a specified annual limit on the tax credits that may be awarded by the administering agency. The More Jobs for Marylanders income tax credit and sales and use tax refund are subject to an annual appropriation. In addition, the Department of Commerce (Commerce) may in each fiscal year award a maximum of $10.0 million in tax credits – $9.0 million in income tax credits and $1.0 million in sales and use tax refunds.

In most other budgeted tax credit programs, applicants earn one-year tax credits and must apply in each successive year, subject to available funding. Tax credits approved in the current fiscal year generally do not result in future revenue losses not funded by the current fiscal year appropriation. As a result, the program's current fiscal year cost can be determined in each annual State budget. However, each applicant under the More Jobs for Marylanders Program is entitled to benefits over 10 years, thereby creating unfunded liabilities that will require future year appropriations. These mandated appropriations will limit the ability of the General Assembly to adjust the program's fiscal impact. The More Jobs for Marylanders appropriations will largely act in a similar manner as the State enterprise zone appropriation, which in each year must equal the cumulative tax credits awarded to businesses in their first through tenth year of participation.

Program's Fiscal Impact Will Increase Over Time

Given the cumulative impact of the program, the appropriations that are necessary to cover program activity will continue to grow as each additional year of applicants are approved. Commerce projects that, by fiscal 2024, the required annual appropriation will be slightly over $20.0 million, and through fiscal 2024, a total of $76.0 million will be appropriated to the program. These appropriations only reflect applications received through October 2020 and largely do not reflect the program's recent expansion for eligible businesses located within federal opportunity zones. Eligible nonmanufacturing businesses located in federal opportunity zones employ about 300,000 workers, which is about 2.5 times greater than the 113,000 manufacturing workers employed in the State. As program awareness increases, participation by nonmanufacturing businesses will rise, leading to a significant addition in the program's fiscal impact.

The Department of Legislative Services (DLS) advises that these factors, combined with the program's recent enactment, create significant uncertainty over the program's future fiscal impact as it is unclear what the baseline level of program activity is and its trajectory. By comparison, DLS has a 20-year history of the One Maryland tax credit, which shows that although annual credit activity fluctuates significantly, it has not increased overall over time – a limited sample of years may not provide a clear picture of the program's fiscal impact.

As discussed later in more detail, a number of unknown factors will determine the program's annual fiscal impact. It should be noted that these projections assume that the program is not extended and that credits are awarded to businesses that apply through June 1, 2022. Extending the program will add additional years of participants, thereby adding to the program's future fiscal impact. Although Commerce has in the limited history of the program awarded far fewer than the annual authorized amount, each one-year extension of the program authorizes up to $100.0 million in additional income tax credits and sales and use tax refunds.

Tax Credit Appropriations and Demand

In fiscal 2019, the first year of funding, the program received the maximum appropriation of $10.0 million for income tax credits and sales and use tax refunds. In fiscal 2020, the State budget reduced the appropriation for income tax credits to $7.0 million, while the appropriation for sales and use tax refunds remained at $1.0 million. In fiscal 2021, the State budget reduced the appropriation for income tax credits to $2.0 million and eliminated the appropriation for sales and use tax refunds. Through fiscal 2021, a total of $20.0 million has been appropriated, as shown in **Exhibit 4.1.**

Exhibit 4.1
More Jobs for Marylanders Appropriations
Fiscal 2019-2021

Program Appropriation	2019	2020	2021	Total
Income Tax Credit Reserve Fund	$9.0	$7.0	$2.0	$18.0
Sales and Use Tax Refund Reserve Fund	1.0	1.0	0.0	2.0
Total	**$10.0**	**$8.0**	**$2.0**	**$20.0**

Source: Department of Legislative Services

As of October 2020, no companies have claimed the sales and use tax refund. As specified in statute, Commerce advises that the department will transfer the entirety of the $2.0 million appropriated for sales and tax refunds to the income tax credit reserve fund, which can then be used to issue additional initial income tax credit certificates.

Based on the estimated income tax credit awards relative to the accumulation of a significant fund balance, Commerce does not anticipate requiring a fiscal 2022 income tax credit reserve fund appropriation. However, the accelerating pace of companies claiming their first year of final tax credit certificates combined with the additive effect of companies claiming credits for subsequent years of participation will likely require that the fiscal 2023 appropriation may be significantly higher than past appropriations. **Exhibit 4.2** shows the available fund balance in the income tax credit reserve fund and the estimated transfers from the fund based on the department's projections of tax credits claimed in each fiscal year. The estimated appropriations required for fiscal 2023 through 2025 incorporate these projections.

Exhibit 4.2

Projected Fund Balance – Income Tax Credit Reserve Fund

Fiscal 2019-2025

	2019	2020	2021	2022	2023	2024	2025
Starting Balance	**$0**	**$9,000,000**	**$15,366,215**	**$13,614,115**	**$2,173,442**	**$0**	**$0**
Sales Tax Refund Reserve Fund Transfer				2,000,000			
Income Tax Credit Appropriation	9,000,000	7,000,000	2,000,000	0	15,057,387	20,093,890	22,683,356
Available Funds	**$9,000,000**	**$16,000,000**	**$17,366,215**	**$15,614,115**	**$17,230,829**	**$20,093,890**	**$22,683,356**
General Fund Transfers		$633,785	$3,752,100	$13,440,673	$17,230,829	$20,093,890	$22,683,356
End of Year Funds Available	**$9,000,000**	**$15,366,215**	**$13,614,115**	**$2,173,442**	**$0**	**$0**	**$0**

Note: The fiscal 2021 through 2025 transfers to the General Fund are based on Commerce's projected tax credit activity. The fiscal 2022 through 2025 appropriation amounts reflect an appropriation equal to the amount required to provide adequate funding to support this estimated activity.

Source: Department of Commerce; Department of Legislative Services

DLS estimates that an appropriation of $15.1 million may be needed in fiscal 2023 to meet the demand for the income tax credit program. However, DLS advises that there is considerable uncertainty over the accuracy of this estimate. Forecasting program activity is difficult, primarily due to two factors:

- the inability to estimate tax credit amounts for companies that have filed a Notice of Intent (NOI) but have not yet formally enrolled in the program; and

- the difficulty projecting the correct fiscal year(s) in which companies enrolled in the program will claim initial and final tax credit certificates.

Companies Not Yet Enrolled

The first step for a company to participate in the program is to submit a NOI. The company must also submit an application to enroll the company's project in the program. This application contains wage data that Commerce uses to estimate the tax credit amount that the company is likely to be awarded. Therefore, the department's projections may underestimate demand as it only incorporates estimated tax credits for companies that have submitted enrollment applications through October 2020. Companies may submit applications through June 1, 2022.

Initial and Final Tax Credit Certificates

Once enrolled, a company may submit an application for an initial tax credit certificate, which states the maximum credit amount the company is entitled for its first benefit year in the program. The final step is to apply for a final credit certificate, which determines the actual amount of the credit that the business can claim in its first benefit year. Companies may participate in the program for 10 benefit years; following the first benefit year, the company must apply again for a new initial credit certificate and a new final credit certificate for each subsequent benefit year.

However, the only program deadlines relate to the NOI and the final credit certificate, with no statutory or regulatory requirements regarding when a company must submit an initial certificate. Once a company submits a NOI, the company must within one year start hiring the eligible positions and must fill the minimum number of required positions within one year of the first hire. Lastly, the company may apply for a final tax credit certificate once the last eligible position hired has been in place for one year. Because there is no requirement related to the timing of the initial certificate, there may be a gap of multiple fiscal years between when a company requests an initial and a final certificate, or a company can request the two at the same time. This creates uncertainty over the appropriation necessary to meet demand for each fiscal year.

Exhibit 4.3 shows the actual amounts of initial and final credit certificates issued by Commerce in fiscal 2019 and 2020, as well as the department's fiscal 2021 through 2025 estimates. Exhibit 4.3 shows separately the credits for companies receiving their first year of benefits from the credits for subsequent benefit years. In fiscal 2020, the department issued approximately $1.8 million in initial certificates for new projects as well as one initial certificate of $55,681 for a project that is in its second benefit year. The department in fiscal 2020 also issued the first final certificates, which totaled $465,543.

Exhibit 4.3

Actual and Projected Program Income Tax Credits

Fiscal 2019-2025 Est.

	2019 Actual	2020 Actual	2021 Est.	2022 Est.	2023 Est.	2024 Est.	2025 Est.
Credits – First Benefit Year							
Initial Certificates Issued	$1,580,649	$1,759,005	$3,329,474				
Final Certificates Issued	0	465,543	3,488,944	$2,611,445			
Initial Certificate Amounts – Final Certificates	0	633,785	3,696,239	2,611,445			
Credits – Subsequent Benefit Years							
Initial Certificates Issued	0	55,681	10,829,228	17,230,829	$20,093,890	$22,683,356	$23,037,863
Final Certificates Issued	0	0	55,861	10,829,228	17,230,829	20,093,890	22,683,356
Initial Certificate Amounts – Final Certificates	0	0	55,861	10,829,228	17,230,829	20,093,890	22,683,356
Amount Transferred out of Reserve Fund	**$0**	**$633,785**	**$3,752,100**	**$13,440,673**	**$17,230,829**	**$20,093,890**	**$22,683,356**

Note: For projects that have not been issued a final certificate, it is assumed that the final certificate amount is equal to the initial certificate amount. While the final certificate, and therefore the actual credit claimed, may be lower, this does not impact the estimate for the amount transferred out of the fund, which is based on the initial certificate amount.

Source: Department of Commerce; Department of Legislative Services

As discussed previously, the projections in Exhibit 4.3 do not include credits that will be claimed by companies that have yet to enroll in the program. Accordingly, for the first benefit year, initial certificates are not shown for fiscal 2022 and beyond, and final certificates are not shown for fiscal 2023 and beyond. Prior estimates by the department overestimated the credits claimed in fiscal 2019 and 2020, as many companies enrolled in the program were slower to claim final credit certificates. However, this lag may be due to the program being in its startup phase and does not necessarily indicate that the projections are also likely to be overestimates.

For purposes of understanding the impact on the balance of the reserve fund, it is important to note that while the final credit certificate issued indicates the amount of credit a business may claim, the amount transferred out of the reserve fund is based on the initial certificate amount. Because initial and final credit certificates for a project are not necessarily issued in the same fiscal year, Exhibit 4.3 also separately notes the initial certificate amounts for final certificates issued in a given fiscal year. The final certificate may not be greater than the initial certificate amount.

Limit on Tax Credit Authority

The initial certificate amount is also the basis for determining the maximum amount of tax credits Commerce may award in each fiscal year. In each fiscal year, the department may award up to $9.0 million in initial certificates in addition to any authority carried over from a previous fiscal year. The department's interpretation of this authority is that the limit applies only to initial certificates that are issued for a project's first benefit year, and not to initial certificates issued for the same project in subsequent benefit years (years 2 through 10). This interpretation extends to instances in which a company increases qualified positions in future years.

Under statute, the unused authority to issue new tax credits rolls over to one fiscal year. However, whether this authority continues to additional fiscal years is open to interpretation. Commerce advises that the department has not yet considered different interpretations of how much authority carries over because program demand has not approached the limit. In addition, the department's projections for initial certificates issued in future years continue to be far below $9.0 million.

Commerce has also indicated that the department will not issue initial credit certificates greater than the level of uncommitted fund balance in the reserve fund. This has also not been an issue to date due to low demand for the program in the first two fiscal years and the resulting excess fund balance. However, program activity has increased, and the department has not requested a new appropriation for fiscal 2022. It is unclear if the department will be able to issue all requested initial certificates in fiscal 2022 and how these requests would be prioritized if demand exceeds availability.

Chapter 5. Income Tax Program Activity

Limited Program Activity to Date

The More Jobs for Marylanders Program has limited program activity to date, reflecting its recent enactment and multistep application process. The Department of Commerce provided project information and tax credit data beginning with the first initial credit certification issued on October 4, 2018, through May 18, 2020. During this time, Commerce has awarded 42 initial credit certificates for the first benefit year, 11 of which received final tax credits. Commerce advises that it expects that all of the remaining 31 projects will receive a final tax credit. Of the 42 projects, only 1 project received an initial credit certificate for its second benefit year. Commerce has awarded a total of $2.4 million in initial credit certificates and $764,700 in final tax credits.

Commerce awarded most of the first year benefit initial credit certificates and final tax credits during calendar 2019. **Exhibit 5.1** shows by the calendar year of approval the total amount of initial credit certificates and final tax credits.

Exhibit 5.1
Initial Credit Certificates and Final Credits Issued
By Calendar Year of Approval

	2018	2019	2020	Total
Initial Credit Certificate	$148,200	$1,819,500	$439,100	$2,406,800
Final Credit	0	26,500	738,200	764,700
Total	**$148,200**	**$1,846,000**	**$1,177,300**	**$3,171,500**

Note: Calendar 2020 reflects data through May 20, 2020

Source: Department of Commerce; Department of Legislative Services

Limited Activity Limits Scope of Program Analysis

This chapter includes information on the 42 projects in the first benefit year of the program. It is assumed that all companies that have received an initial tax credit will receive a final tax credit. The information reflects the wages and jobs at the time of the final credit certification; otherwise, the projected jobs and wages are at the time of initial credit certification. Subsequent references to tax credits in this chapter refer to the final tax credit or, if the company had not yet received a final tax credit, the initial credit certificate.

It should be noted that the characteristics of the program may change as the program matures and additional tax years are claimed, and it largely does not reflect the program's recent expansion to nonmanufacturers located within federal opportunity zones.

The limited program data prevents the Department of Legislative Services (DLS) from conducting a comprehensive economic analysis which determines the costs and benefits of the tax credit. However, in addition to the information presented in this Chapter, Chapter 7 discusses several program design and implementation issues that may decrease the effectiveness of the program.

Distribution of Credit Values

A typical project in the first benefit year reported 12 jobs and qualified for a first benefit year tax credit of $33,990. Only four certifications were greater than $200,000, with a maximum first year credit of $505,200. **Exhibit 5.2** shows the number of projects, total credits, reported jobs, and average wages paid by first year benefit credit value.

Exhibit 5.2
Certifications, Credits, Jobs, and Average Wages
By First Benefit Year Credit Amount

Credit Amount	Projects	Total Credits	Total Jobs	Average Wages
Up to $20,000	13	$208,500	89	$40,700
$20,001 - $50,000	14	462,500	165	49,200
$50,001 - $100,000	6	447,300	129	60,300
$100,001 - $200,000	5	683,900	155	76,700
Over $200,000	4	1,369,300	308	77,300
Total	**42**	**$3,171,500**	**846**	**$65,300**

Source: Department of Commerce; Department of Legislative Services

Companies which continue to meet program requirements are entitled to nine additional income tax benefit years for the 846 qualified positions. Assuming the companies maintain a constant number of positions, companies will typically receive a tax credit of $339,800 over the 10-year benefit period. **Exhibit 5.3** projects over the 10-year time period the total and average tax credits.

Exhibit 5.3
Certifications, Credits, and Jobs By Projected 10-year Credit Amount

		Tax Credit Amount		
Credit Amount	Projects	Total	Average	Total Jobs
Up to $200,000	8	$1,362,600	$170,300	52
$200,000 - $300,000	7	1,629,400	232,800	57
$300,000 - $500,000	11	4,353,300	395,800	133
$500,000 - $1 million	5	3,671,100	734,200	80
$1.0 to $2.0 million	7	10,124,600	1,446,400	216
Over $2.0 million	4	16,064,100	4,016,000	308
Total	**42**	**$37,205,100**	**$885,800**	**846**

Note: Assumes all companies maintain, but do not increase, number of qualified positions and average wage growth of 3.5%.

Source: Department of Commerce; Department of Legislative Services

More Jobs for Marylanders Income Tax Credit is More Generous than Most State Employment Tax Credits

The typical More Jobs for Marylanders income tax credit is much greater than both the enterprise zone employment tax credit and the job creation tax credit (about 7 times greater) and is about 50% greater than the typical combined State and local businesses that create new jobs tax credit. However, it is significantly less than the One Maryland tax credit. Part of the difference reflects a variation in the typical number of jobs created and capital invested across these programs. For example, the typical More Jobs for Marylanders project reports significantly fewer jobs (12) than projects in the job creation tax credit (51 jobs) and One Maryland tax credit (43 jobs). However, even after controlling for these differences, the programs provide very different subsidies relative to the economic benefits generated by the projects.

Projects with a similar number of jobs receive a More Jobs for Marylanders income tax credit of $1.7 million, considerably more than the job creation tax credit ($55,400) but still less than the One Maryland tax credit ($4.8 million).

Achieving Multiple Program Requirements Would Require Significant Increase in Funding

Commerce in each year must report to the Governor and the General Assembly on the amount of tax credits under the program necessary to: (1) maintain the current level of manufacturing activity in the State; (2) attract new manufacturing activity to the State; and (3) attract new businesses to and encourage the expansion of existing businesses within federal opportunity zones in the State. The Governor's annual reserve fund appropriation must equal or exceed the amount reported by Commerce necessary to achieve these goals. However, notwithstanding the amount reported, Commerce may only award in each fiscal year up to $10.0 million in combined income tax credits and sales tax refunds.

The State's manufacturing industry employs about 113,000 workers, and an additional 300,000 workers are employed at eligible nonmanufacturing businesses located within a federal opportunity zone. Relative to the total workers employed by manufacturers and eligible businesses located within federal opportunity zones, satisfying the three goals will require a significant commitment of State resources in addition to the funding currently provided to the program. The 42 projects in their first benefit year will receive over a 10-year time period a total of $37.2 million in tax credits. These projects report creating 846 jobs, which is about 0.2% of the total number of individuals employed by eligible businesses, as shown in **Exhibit 5.4.**

Exhibit 5.4
Reported Jobs and Projected 10-year Tax Credits by Business Type Relative to Total Employment

Business Type	Total Employment	Tax Credits	Project Jobs	Percentage of Total Employment
Manufacturing Businesses	113,000	$36,989,200	840	0.7%
Other Eligible Businesses	300,000	215,900	6	0.002%
Total	**413,000**	**$37,205,100**	**846**	**0.2%**

Note: Includes the 42 businesses receiving a first benefit year tax credit issued in October 4, 2018, through May 18, 2020.

Source: Department of Commerce; Department of Legislative Services

As detailed in the previous chapter, the appropriations that are necessary to cover the limited manufacturing program activity will continue to grow as each additional year of applicants is approved. Commerce projects that, by fiscal 2024, the required annual appropriation will be slightly over $20.0 million, and through fiscal 2024 a total of $76.0 million will be appropriated to the program.

Geographic Distribution of Credit Activity

As shown in **Exhibit 5.5**, Commerce has approved projects in all but five counties – Allegany, Calvert, Charles, Dorchester, and St. Mary's counties. Projects located within Anne Arundel, Howard, and Washington counties and Baltimore City account for more than one-half of all tax credits. Higher wages and a greater average number of jobs per project explain most of the increased activity in these counties, except in Washington County, which largely reflects a greater number of projects.

Exhibit 5.5
Income Tax Credits by County
First Benefit Year

County	Projects	Credits	Jobs
Allegany	0	$0	0
Anne Arundel	3	645,700	130
Baltimore	6	147,100	42
Baltimore City	1	505,200	105
Calvert	0	0	0
Caroline	1	41,200	14
Carroll	2	124,500	56
Cecil	1	233,200	53
Charles	0	0	0
Dorchester	0	0	0
Frederick	4	249,400	90
Garrett	1	31,200	15
Harford	1	27,100	11
Howard	2	300,300	75
Kent	2	25,900	15
Montgomery	2	283,800	38
Prince George's	3	113,500	40
Queen Anne's	1	25,300	10
St. Mary's	0	0	0
Somerset	1	28,800	14
Talbot	2	35,000	16
Washington	7	297,300	100
Wicomico	1	18,500	10
Worcester	1	38,500	12
Total	**42**	**$3,171,500**	**846**

Source: Department of Commerce; Department of Legislative Services

Variety of Businesses Participate with Biomanufacturers and Aerospace and Defense Companies Claiming Most Credits

The typical company in the first benefit year of the program employed 255 people and had been in operation for about 34 years. There were 41 manufacturing projects and only 1 nonmanufacturing project within a federal opportunity zone. The manufacturers are engaged in a diverse range of activities, from traditional manufacturing to cybersecurity and software systems products.

Commerce awarded the largest share of tax credits to chemical and pharmaceutical manufacturers, most of which were awarded to two biomanufacturing facilities focused on producing gene therapies and cancer immunotherapies. These facilities received the largest, fifth largest, and sixth largest tax credit and are owned are by large pharmaceutical companies – Catalent, which in calendar 2019 acquired Maryland-based Paragon Biosciences, and Gilead Sciences, which in calendar 2017 acquired Kite Pharma.

Aerospace and defense contractors accounted for most tax credits awarded to both the computer and electronics industry and transportation equipment industry. A large share was awarded to the General Dynamics and Northrup Grumman companies, including subsidiaries of these companies, which both employ about 100,000 people. One of the two credits awarded to Northrup Grumman was for a project located at the company's Linthicum campus, which recently received a significant State retention package of the State's Sunny Day Funds and Aerospace, Electronics, and Defense Contract tax credits. Other, smaller defense and aerospace contractors within these industries produced a variety of products, including printed circuit boards, radar and other detection systems, defense and intelligence agency software systems, and cybersecurity products. The remaining defense contractors were classified as fabricated metal companies, including one firm that produces subaquatic remotely operated vehicles. In total, a little less than 80% of all credits were awarded to the two biomanufacturing companies and aerospace and defense companies.

Several food and beverage manufacturer projects have participated in the program, including a reported $16.1 million expansion at the Pinnacle Foods facility in Hagerstown (acquired by ConAgra Brands in calendar 2018), which produces meatless food products, and Freshly's home delivery meal distribution center in Howard County. Three breweries in Baltimore and Prince George's counties account for the remaining projects.

The remaining manufacturing projects include the Mack Trucks/Volvo Group's 1.5 million square foot powertrain manufacturing facility in Hagerstown as well as producers of a variety of building components (windows, glass, multistory HVAC systems, and elevators), fabricated metal for large buildings, tunneling/mining equipment, and commercial landscaping equipment. One business within the professional, scientific, and technical services industry accounted for the only nonmanufacturing project. **Exhibit 5.6** summarizes by industry the total tax credits, jobs, and average wages paid.

Exhibit 5.6
Income Tax Credits, Jobs, and Average Wages by Industry
First Benefit Year

Industry	Projects	Credits	Jobs	Average Wages
Chemicals and Pharmaceutical	5	$847,000	169	$87,200
Computer and Electronic Products	7	599,700	136	76,700
Fabricated Metals	6	193,400	59	57,000
Food and Beverages	5	423,200	140	52,600
Machinery	7	245,300	114	37,400
Other Manufacturing	7	313,000	102	54,100
Professional, Scientific, and Technical Services	1	18,400	6	53,300
Transportation Equipment	4	531,500	120	77,000
Total	**42**	**$3,171,500**	**846**	**$65,300**

Source: Department of Commerce; Pitchbook.com; Department of Legislative Services

Smaller Employers Are Underrepresented in the Program

In previous evaluations of other State tax credit programs, DLS has found that most program benefits are awarded to large, established multistate corporations. These programs include capital investment and employment tax credits (job creation, One Maryland, businesses that create new jobs) as well as other programs such as the film production activity and research and development tax credits. In most of the capital investment and employment tax credit programs, smaller employers are often unable to qualify due to minimum capital expenditure and/or job creation thresholds. Of the businesses that do participate, tax credits are skewed towards the largest businesses as these larger employers typically pay higher wages and undertake larger projects.

DLS also finds that most of the More Jobs for Marylanders income tax credits have been awarded to large, established corporations as only three tax credits were awarded to companies that have been in operations for no more than 10 years, with the typical company operating for over 30 years. Two companies received 40% of all credits, and the seven companies receiving a tax credit of at least $100,000 account for two-thirds of all tax credit awards.

About 95% of all firms within Maryland employ 100 or fewer individuals; however, these firms account for only one-third of all projects. Among other requirements, DLS defines a small business as an independent business with 25 or fewer employees. Small businesses had two qualifying projects and received about 1% of all tax credits.

Although smaller employers are underrepresented, the More Jobs for Marylanders Program has greater participation by smaller employers compared to other tax credit programs as well as a lower concentration of credits among the largest claimants. Other tax credit programs typically have a higher minimum employment threshold and often require minimum capital expenditures, which is not required under the More Jobs for Marylanders Program. **Exhibit 5.7** shows the projects, tax credits, and jobs by total employees at the business and the average number of years the businesses have been in operation.

Exhibit 5.7
Income Tax Credits, Jobs, and Average Wages by Industry
First Benefit Year

Total Employees	Projects	Credits	Jobs	Years in Business	Average Wages
25 or Fewer	2	$32,600	12	18.5	$47,300
26 to 50	5	193,200	50	24.8	67,200
51 to 100	8	323,700	119	38.5	47,900
101 to 250	6	180,700	67	35.0	46,900
251 to 1,000	6	507,100	127	49.5	69,400
Over 1,000	15	1,934,200	471	68.1	71,400
Total	**42**	**$3,171,500**	**846**	**47.6**	**$65,300**

Source: Department of Commerce; Pitchbook.com; Department of Legislative Services

The program has also attracted a greater share of Maryland-headquartered companies (60% of all projects), which also include multinational companies with Maryland-located North American or U.S. headquarters. These companies have been in operation for fewer years and are significantly smaller (typically employing 64 people compared to 12,300 people for other companies); accordingly, the companies report creating fewer jobs, and most were paid less than the average county wage. As a result, these companies received about one-quarter of all tax credits. About one-third of all Maryland-headquartered companies were aerospace and defense contractors; those companies had the highest representation within the machinery manufacturing industry.

Enhanced Benefits in the Program Have Attracted Few New Businesses

The More Jobs for Marylanders Program provides additional incentives to qualifying new businesses located in Tier I counties and federal opportunity zones. Despite this emphasis, only two new facilities earned less than $100,000 in tax credits. By comparison, new facilities have earned about 40% of all One Maryland tax credits. Further, their participation has recently increased and, since 2014, new facilities have received a majority of these tax credits. Chapter 8 discusses in more detail how the program's Tier I and Tier II distinctions have had a limited impact.

Average Wages Paid and Wage Premium

In recent years, the General Assembly has expressed interest in the types of jobs receiving State subsidies and the average pay of the positions. Several State employment tax credits, including the More Jobs for Marylanders Program, require qualified positions to pay minimum wages. Manufacturers are required to pay a qualified position at least 120% of the State minimum wage – an annual salary of $27,457 in calendar 2020. The phased-in State minimum wage increase will also raise this requirement and, in calendar 2025, will be $37,470.

The typical wages paid to qualified positions ($53,700) are significantly above the program's requirement. The average wages paid across counties ranged from $30,026 in Kent County to $129,826 in Montgomery County. Average wages and cost-of-living vary significantly across the State. Comparing the average wages paid to qualified positions to the average wages for all private industry workers in the county in which the project is located can control for some of this variation. Jobs can pay a wage premium (qualified positions are paid greater wages than the county average) or a wage deficit (wages below the county average).

The average wages paid to a position should be considered in light of a program's objective. The More Jobs for Marylanders Program provides enhanced benefits in areas considered economically distressed – Tier I counties and opportunity zones. Lower-skilled jobs require less education, pay less and, through an effective program, could provide some job opportunities for community residents. However, higher wage jobs are preferred if the objective of the program is to subsidize jobs that are considered high-quality jobs or provide a living wage. In addition, certain entry level jobs may pay a low wage but offer a pathway for most workers to achieve middle class wages and benefits.

As shown in **Exhibit 5.8**, all of the projects located in eight counties paid a wage premium, some of the projects in five counties and, in six counties, none of the projects. The average wage premium was highest in Cecil, Montgomery, and Worcester counties, and the lowest deficit was in Kent, Somerset, and Wicomico counties. Overall, an equal number of projects paid a wage premium and wage deficit. The projects that paid a wage premium on average had a higher average wage premium and reported creating more jobs, resulting in an overall wage premium across all projects of 13%.

Exhibit 5.8
Wages Paid to Qualified Positions by County

County	Project Average Wage	% Projects Paying Higher Wage	Wage Premium
Anne Arundel	$86,366	100%	38%
Baltimore	60,924	50%	4%
Baltimore City	83,669	100%	12%
Caroline	51,185	100%	16%
Carroll	39,964	0%	-9%
Cecil	76,532	100%	60%
Frederick	48,195	25%	-8%
Garrett	36,227	100%	4%
Harford	42,785	0%	-14%
Howard	69,645	50%	-6%
Kent	30,027	0%	-29%
Montgomery	129,826	100%	72%
Prince George's	49,351	0%	-11%
Queen Anne's	44,082	100%	3%
Somerset	35,835	0%	-20%
Talbot	38,087	50%	-14%
Washington	51,683	57%	15%
Wicomico	32,143	0%	-31%
Worcester	55,848	100%	53%
Total	**$65,280**	**50%**	**13%**

Source: Department of Commerce; Bureau of Labor Statistics; Department of Legislative Services

Chapter 6. Other Program Activity

In addition to the income tax credit available to both new and existing businesses, new manufacturers located in Tier I counties and all new qualifying businesses located within federal opportunity zones can claim three additional program incentives: (1) a refund of certain sales and use taxes; (2) a credit against certain State property taxes; and (3) a waiver of corporate filing fees.

All but a few of the companies certified by the Department of Commerce (Commerce) are existing companies and do not qualify for these additional incentives. As discussed below, there has been minimal program activity. The Department of Legislative Services (DLS) inquired with Commerce and the State Department of Assessments and Taxation (SDAT) for information on the implementation of the program benefits. As discussed below, SDAT did not respond to requests for information on the implementation of the property tax credit and corporate filing fee waiver.

Corporate Filing Fees

Since its inception, one of the benefits provided under the More Jobs for Marylanders Program is a waiver of various business filing fees. Businesses operating in Maryland are required to pay various fees to the State to operate in Maryland. These fees are established in § 1-203 of the Corporations and Associations Article and are collected by SDAT. Fees ranging from $6 to $300 per transaction are imposed when a business files documents such as articles of incorporation, annual reports, change of address, and name registration. Subject to a few exceptions, these fees are generally used by SDAT to support the operating costs of the department's Charter Unit as well as expenses for improving their operations, for instance, in establishing new information technology programs.

According to Commerce, one company is eligible for this benefit. However, SDAT has not responded to inquiries as to whether this benefit has been claimed and the value of this benefit.

Sales and Use Tax Refund

In fiscal 2020, sales and use tax revenues account for approximately 25% of the State's general fund revenues amounting to just over $4.6 billion. Approximately 89% of sales and use tax revenues collected in the State accrue to the General Fund; the remaining accrue to either the Chesapeake Bay Trust Fund, the Transportation Trust Fund, or the Blueprint for Maryland's Future Fund.

A new qualified business is entitled to a refund of the sales and use tax paid by the business for purchasing goods and services that will be used solely at the eligible facility operated by business. The goods and services must have been purchased on or after January 1, 2018. A business must file a claim with Commerce on or after January 1 of the year following the purchase. The department has not promulgated regulations for the application process for claiming this refund. Commerce states that they are observing the activity of the program to better inform the content of any future regulations and are currently using a first come, first served basis for processing applications.

Chapter 149 of 2017 established the More Jobs for Marylanders Sales and Use Tax Refund Reserve Fund from which Commerce will make refund payments. The Act limited the amount of refunds to no more than $1.0 million in any fiscal year. Further, the Act provides that any unused sales and use tax refund reserve funds be transferred to the More Jobs for Marylanders Income Tax Credit Reserve Fund that was established to fund the income tax credit provided under the program.

According to Commerce, one company is eligible for this benefit but has not claimed it. As discussed in more detail in Chapter 4, because no company has claimed the refund, there is currently $2.0 million in the reserve fund, and according to Commerce, this amount will be transferred to the income tax credit reserve fund.

In addition to the sales and use tax refund available under the program, there are similar tax exemptions that have been available for many years to Maryland businesses. The most relevant exemption is the exemption for machinery and equipment that is used in the production processes of businesses, including manufacturers provided under § 11-210 of the Tax – General Article.

Property Tax Credit

The State real property tax rate is 11 cents for every $100 of assessable value. For fiscal 2021, the projected $890 million in revenue will be used to pay debt service for State-issued bonds that are used to fund various construction projects throughout the State.

The value of the More Jobs for Marylanders property tax credit depends on whether the business is a manufacturing business. For a new manufacturing business, the credit is 100% of the State property taxes assessed on the qualifying property. For a new nonmanufacturing business, the value of the credit is limited to $250 for each qualified filled position at the facility of the business. For a facility located within an opportunity zone, the average annual salary of the qualified position must exceed $50,000. But, for a facility that is in a Tier I area, the position must pay at least 120% of the State minimum wage.

According to Commerce, one company is eligible for this benefit. However, SDAT has not responded to inquiries as to whether this benefit has been claimed and the value of this benefit.

Chapter 7. Credit Design and Implementation Issues

Program Has Complicated Geographic Qualifications

The program has complicated geographic eligibility requirements compared to other geographically targeted State tax credit programs including the enterprise zone, businesses that create new jobs, One Maryland, and Regional Institution Strategic Enterprise (RISE) programs. In these other programs, activity must occur within the designated area, either a county or zone, but not both. A business cannot participate in the One Maryland program or RISE Zone Program unless the business is located within a Tier I county or RISE Zone, respectively. In addition, although the programs may restrict eligibility to certain businesses, there are generally no geographic distinctions between new and existing businesses, and the locations in which different types of businesses can qualify do not differ.

The More Jobs for Marylanders Program has multiple geographic eligibility standards – Tier I counties that qualify under unemployment/income standards, up to three additional Tier I counties designated by Commerce, and Tier I areas designated as federal opportunity zones. The program defines a Tier II area as an area not designated as a Tier I area.

These geographic distinctions do not appear to have a meaningful influence on tax credit activity. About 60% of all projects have occurred within Tier I counties, however, these projects on average create fewer jobs and pay lower wages. Four of the six counties receiving the most tax credits – Anne Arundel, Frederick, Howard, and Montgomery – are Tier II counties. As a result, Tier II counties have reported a majority of qualified positions and received most of the tax credits, both of which are slightly greater than their share of the State's total manufacturing employment, as shown in **Exhibit 7.1.**

Exhibit 7.1
Program Activity, Credits, and Jobs Relative to Total Manufacturing Employment
($ in Millions)

				Percentage of Total		
Counties	**Projects**	**Program Jobs**	**Total Credits**	**Program Jobs**	**Tax Credits**	**Manufacturing Jobs**
Tier I	25	420	$1.5	49.6%	46.7%	52.8%
Tier II	17	426	1.7	50.4%	53.3%	47.2%
Total	**42**	**846**	**$3.2**			

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

Program Objectives Vary, but Incentives Do Not

The incentives designed at the program's inception had the objective of promoting new and existing manufacturing businesses. The program's alteration in 2019 included a new, substantially different objective – the promotion of a diverse range of businesses within federal opportunity zones – to be achieved by using the same incentives designed for a different objective. Manufacturers employ only about 6% of the workers employed within the zones, with the largest concentration within the health care industry (20%), followed by about 11% each in the professional, scientific, and technical services and accommodations and the food services industries. Opportunity zones also differ in their characteristics including level of economic distress, urban versus rural, and geographic size.

The Department of Legislative Services (DLS) evaluated the enterprise zone and RISE zone program and found that both programs shared a similar design and implementation flaw – using the same incentive to achieve different objectives. Enterprise zones vary across the State, some are small targeted industrial zones, while others are large zones with diverse businesses. In the evaluation of the enterprise zone program, DLS found that in contrast to the overall expansion of the program, a significant number of zones failed to attract many businesses and significant investment. The lack of activity in many enterprise zones likely reflected the challenges of providing a one-size-fits-all incentive across all zones despite the variation in local economies, standards, and objectives.

In the RISE zone program evaluation, DLS found that using enterprise zone tax credits designed to fulfill a different goal of the State may not best achieve the goals and objectives articulated by RISE zone administrators. In addition, given that goals and objectives vary across zones, the program may not provide adequate flexibility.

The incentives provided by the More Jobs for Marylanders Program are generous and likely to eventually attract businesses located within opportunity zones. However, based on the experiences of the RISE and enterprise zone programs, an incentive originally designed to assist manufacturing located in geographically different areas of the State will likely not be equally effective at promoting business activity within opportunity zones.

Program Incentives Can Be Redundant and Uncoordinated with Similar Programs

The More Jobs for Marylanders Program overlaps with a number of State tax credits that share similar objectives. Enhanced incentives within areas identified as being economically distressed are provided under the More Jobs for Marylanders, One Maryland, enterprise zone, and job creation tax credit. The businesses that create new jobs tax credit does not target economically distressed areas, but the program provides State and local tax credits for businesses that create new jobs at established or new facilitates located in certain counties.

Manufacturers have benefitted from several existing tax credit programs, including the One Maryland and research and development tax credit programs, and several enterprise zones located within Tier I counties target manufacturers. Even though most of the defense contractors participating in the More Jobs for Marylanders Program cannot qualify for the Aerospace, Electronics, and Defense Contract (AEDC) tax credit, about one-fifth of all More Jobs for Marylanders income tax credits have been awarded to Northrup Grumman, including one project location that also received AEDC tax credits as part of a significant State retention package.

The program's overlap with the One Maryland program will likely contribute to the program's difficulty in attracting new manufacturing businesses. Since 2001, manufacturing facilities accounted for about one-half of all One Maryland projects and received a total of $104.2 million in tax credits, about one-third of all program funds. In most counties, manufacturers claim a majority of all tax credits and account for two-thirds of all tax credits in the Tier I counties located in the Eastern Shore and Western Maryland.

The program is most similar to the One Maryland program; however, the value of the More Jobs for Marylanders tax credit is based on wages whereas the One Maryland credit is based on capital expenditures. New manufacturing facilities typically require significant capital expenditures, making the More Jobs for Marylanders tax incentives less attractive.

The new manufacturing facilities that have recently participated in the One Maryland program reported an average of $8.8 million in project costs and 41 new jobs. Commerce awarded these projects a One Maryland tax credit of $4.6 million; by comparison these projects would have received a total of $1.5 million under the More Jobs for Marylanders incentives, as shown in **Exhibit 7.2.**

Exhibit 7.2

More Jobs for Marylanders and One Maryland Incentives New Manufacturing Facility

Benefits by Program	Tax Credits	Cost per Job Year
More Jobs for Marylanders		
Income Tax	$1,334,500	
State Property Tax	113,100	
Waiver of Fees	3,000	
Total Incentives	**$1,450,600**	**$3,538**
One Maryland Income Tax Credit	**$4,620,000**	**$11,268**

Source: Department of Legislative Services

Businesses, along with individuals, claim the tax incentives that maximize their benefits. Larger, more capital-intensive facilities are more likely to claim the One Maryland tax credit – the 27 manufacturing expansions and new facilities under the One Maryland program received a total of $104.1 million in tax credits but would have only received an estimated $34.7 million under the More Jobs for Marylanders Program. Manufacturers will also claim both tax credits when available; 7 of the 40 companies participating in the More Jobs for Marylanders Program have also previously received a One Maryland tax credit.

Despite the similarities between the programs, the programs are not coordinated; different incentives are offered across similarly situated areas of the State. New and existing manufacturers can claim either, or both, incentives in Tier I counties that qualify under unemployment/income standards. Three Tier I counties do not meet these standards and are designated by Commerce under the More Jobs for Marylanders Program and have about one-third of the State's manufacturing base. In those designated counties, new and existing companies can only claim the More Jobs for Marylanders incentives. Within Tier II areas not located within federal opportunity zones, new manufacturers may not claim either incentive, and existing manufacturers can only claim the More Jobs for Marylanders income tax credit.

Chapter 8. Findings and Recommendations

Based on the information and analysis provided in this report, the Department of Legislative Services (DLS) recommends changes to improve the More Jobs for Marylanders Program, as discussed further.

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, One Maryland program, Opportunity Zone Enhancement Program, 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 revitalization areas. In addition, the businesses that create new jobs tax credit provides State and local tax credits for businesses that establish or expand a business facility in certain counties.

The State has provided significant support to manufacturing businesses through other tax credit programs; the share of support received by manufacturers in several programs is often greater compared to the support received by other industries, relative to each industry's share of economic activity and employment. The More Jobs for Marylanders Program has the most overlap with the One Maryland program – 7 out of the 40 companies participating in the program have also received a One Maryland tax credit. Despite the similarities between the programs, their lack of coordination provides inconsistent incentives across similarly situated areas of the State and reduces each program's effectiveness. In addition, manufacturers receive support through the research and development tax credit and several enterprise zones located within Tier I counties target manufacturers. Even though most of the defense contractors participating in the More Jobs for Marylanders Program cannot qualify for the Aerospace, Electronics, and Defense Contract (AEDC) tax credit, about one-fifth of all More Jobs for Marylanders income tax credits have been awarded to Northrup Grumman, including one project location that also received AEDC tax credits as part of a significant State retention package.

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

If the General Assembly, in light of Commerce's findings from the report, decides not to consolidate the More Jobs for Marylanders Program, DLS has several recommendations to improve the credit that are discussed further.

Program Will Mandate Significant Future Funding

Most of the State's major business tax credits are subject to an aggregate annual limitation, either through budget appropriation or a specified annual limit on the tax credits that may be awarded by the administering agency. The More Jobs for Marylanders income tax credit and sales and use tax refund are subject to an annual appropriation and an annual limit on the amount of tax credits and refunds that Commerce may award in each fiscal year. However, each new applicant is entitled to a 10-year tax benefit, creating unfunded liabilities that will require future year appropriations. These mandated appropriations will limit the ability of the General Assembly to adjust the program's fiscal impact.

Given the cumulative impact of the program, the appropriations that are necessary to cover income tax credit program activity will continue to grow as each additional year of applicants are approved. Commerce projects that, by fiscal 2024, the required annual income tax appropriation will be slightly over $20.0 million and, through fiscal 2024, a total of $76.0 million will be appropriated for the incentive. These appropriations only reflect applications received through October 2020 and largely do not reflect the program's recent expansion for eligible businesses located within federal opportunity zones. Eligible nonmanufacturing businesses within opportunity zones employ about 300,000 workers, which is about 2.5 times greater than the 113,000 manufacturing workers employed in the State. As program awareness increases, participation by nonmanufacturing businesses will rise, leading to a significant addition in the program's fiscal impact.

Extending the program beyond its June 30, 2022 termination date will add additional years of participants, thereby significantly increasing the program's future mandated funding. Although Commerce has, in the limited history of the program, awarded far fewer than the annual authorized amount, each additional year the program is extended will authorize up to $100.0 million in additional income tax credits and sales and use tax refunds.

Each year, Commerce must report to the Governor and the General Assembly on the amount of tax credits under the program necessary to maintain the current level of manufacturing activity in the State, attract new manufacturing activity to the State, and attract new businesses to and encourage the expansion of existing businesses within federal opportunity zones. The Governor's annual reserve fund appropriation must equal or exceed the amount reported by Commerce necessary to achieve these goals. Achieving these goals would require additional significant, annual commitments of State resources in light of the tax credit's generous incentives. The 42 projects in their first benefit year may receive over a 10-year time period a total of $37.2 million in tax credits. These projects report creating 846 jobs, which is about 0.2% of the total number of individuals employed by targeted businesses.

Recommendation: In order to address the long-term funding mandated by the program in future years, DLS recommends that the General Assembly consider statutory changes to reduce the program's fiscal cost, including for future applicants a reduction in the income tax credit's value and the number of years the credit may be claimed and by further restricting eligibility to certain businesses. In addition, the General Assembly should consider allowing the program to terminate as provided under current law.

Recommendation: DLS recommends eliminating the statutory requirement that the Governor include an appropriation that is equal to the minimum level that Commerce reports is necessary to promote/support manufacturing and opportunity zone business activity. In addition, DLS recommends eliminating Commerce's current reporting requirement and instead require the department to report annually specified information about the program's fiscal impact, including the amount of funding that will be required in the next fiscal year to offset the revenue losses resulting from current program applicants and a five-year projection of the program's likely fiscal impact.

Recommendation: DLS recommends that the General Assembly clarify in statute which income tax certificates count toward the authorization limit and how much unused authority rolls over between fiscal years. DLS also recommends that Commerce adopt regulations to clarify how projects will be prioritized if demand exceeds available authority.

Program Geographic Designations and Incentives Are Overly Complicated

The More Jobs for Marylanders Program has multiple geographic eligibility standards – Tier I counties that qualify under unemployment/income standards, up to three additional Tier I counties designated by Commerce, and Tier I areas designated as federal opportunity zones. The program defines a Tier II area as an area not designated as a Tier I area. The program also has different eligibility standards for new and existing businesses and for different types of businesses. These requirements are more complicated compared to similar State tax credit programs.

Businesses within Tier I areas are required to create fewer jobs than businesses within Tier II areas, and new businesses qualify for additional program incentives. In addition to the income tax credit, these new businesses qualify for a State property tax credit, a refund of certain sales and use taxes, and a waiver of corporate filing fees. In addition to the sales and use tax refund available under the program, manufacturers qualify for several other sales and use tax exemptions. According to Commerce, one company is eligible for the sales and use tax refund and corporate filing fee waiver but has not claimed either benefit. The State Department of Assessments and Taxation did not respond to requests for information on the implementation of the property tax credit and corporate filing fee waiver.

The program's geographic designations do not appear to have had a meaningful influence on tax credit activity. Tier II counties have reported a majority of qualified positions and received most tax credits, both of which are slightly greater than their share of the State's total manufacturing employment. The program has only attracted 2 new manufacturing businesses, compared to 40 existing businesses. New manufacturing facilities are capital intensive; in most Tier I counties, it is more beneficial to claim the One Maryland tax credit than the combined incentives of the More Jobs for Marylanders Program.

Recommendation: DLS recommends reducing the program's complexity by eliminating the program's Tier I and Tier II designations and the additional sales and use tax refund, State property tax credit, and waiver of corporate filing fees available to new businesses.

Recommendation: If the General Assembly decides not to terminate the sales and use tax refund, DLS recommends that Commerce adopt implementing regulations. The regulations should clarify the procedures related to distributing refunds and the application process and requirements.

Smaller-sized Businesses Are Underrepresented in the Program

In previous evaluations of other State tax credit programs, DLS has found that most program benefits are awarded to large, established multistate corporations. Of the businesses that do participate, tax credits are skewed toward the largest businesses, as these larger employers typically pay higher wages and undertake larger projects.

DLS also finds that most of the More Jobs for Marylanders income tax credits have been awarded to large, established corporations. Two companies received 40% of all credits, and the seven companies receiving a tax credit of at least $100,000 account for two-thirds of all tax credit awards. About 95% of all firms within Maryland employ 100 or fewer individuals; however, these firms account for only one-third of all More Jobs for Marylanders projects and received only 17% of all income tax credits. Among other requirements, DLS defines a small business as an independent business with 25 or fewer employees. Small businesses had two qualifying projects and received about 1% of all tax credits.

Although smaller employers are underrepresented, the More Jobs for Marylanders Program has attracted greater participation by smaller employers compared to other tax credit programs.

Recommendation: Given the General Assembly's interest in small businesses and their lack of participation in most State tax credit programs, the More Jobs for Marylanders Program should limit eligibility to smaller employers. This will also improve the program's effectiveness by reducing its overlap with existing tax credit programs.

Program Does Not Specify an Objective

Chapter 149 of 2017 established the More Jobs for Marylanders Program but did not specify a specific goal or intent for the credit. In addition, there is no intent specified within program regulations. The incentives designed at the program's inception aimed to promote new and existing manufacturing businesses. In 2019, the program expanded to include a new, substantially different objective – the promotion of a diverse range of businesses within federal opportunity zones – to be achieved by using the same incentives designed for a different objective.

In previous tax credit evaluations, DLS found that using the same tax credit to fulfill different objectives is less effective compared to a program that provides adequate flexibility and is tailored to the variation in local conditions and needs.

The incentives provided by the More Jobs for Marylanders Program are generous and likely to eventually attract businesses located within opportunity zones. However, an incentive originally designed to assist manufacturing located in geographically different areas of the State will likely not be equally effective at promoting business activity within opportunity zones.

Recommendation: DLS recommends that the General Assembly establish in statute the objective of the program.