

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 400
Ways and Means

(Delegate Chang)

Biotechnology Investment Incentive Tax Credit - Conversion to Grant Program

This bill converts the Biotechnology Investment Incentive Tax Credit (BIITC) to the Biotechnology Investment Incentive Grant Program within the Department of Commerce and makes various conforming changes. The bill repeals the BIITC Reserve Fund, establishes the Biotechnology Investment Incentive Grant Program Fund, and requires the Governor to include an appropriation of \$10.0 million to the grant program fund in the annual budget bill. The bill also allows a subtraction modification against the income tax for the amount of a grant received under the bill to the extent such an amount is included in income for federal income tax purposes. Consistent with existing law, the program sunsets after fiscal 2028. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: Under the assumptions discussed below, overall State expenditures for biotechnology investment incentives are unaffected; however, general fund expenditures for incentives may increase in FY 2028. General fund expenditures may increase further in FY 2027 and/or 2028 for program administrative costs, as also discussed below. Revenues are not affected. **This bill establishes a mandated appropriation for FY 2028.**

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: Existing BIITC provisions as in effect before the bill's July 1, 2026 effective date continue to apply to tax credit certificates issued before the bill's effective

date. Commerce must disburse a grant to a qualified investor for which an initial grant eligibility certificate has been issued within 90 days of determining that the qualifying investment has been made. The bill makes various conforming changes to existing provisions relating to the recapture of program benefits under certain circumstances.

Current Law: The BIITC program offers a refundable State income tax credit to qualified investors that invest at least \$25,000 in a qualified Maryland biotechnology company. “Qualified Maryland biotechnology company” is defined as a biotechnology company that has its headquarters and base of operations in the State; has fewer than 50 full-time employees; has been in active business no longer than 12 years; is not publicly traded on any securities exchange; has been certified by Commerce; and the qualified investors in which have not received more than \$7.0 million in tax credits in aggregate under the program. To be eligible for the tax credit, a qualified investor may not own or control more than 25% of the equity interests in the qualified Maryland biotechnology company after making the proposed investment.

The tax credit is generally equal to 33% of the qualified investment, up to \$250,000. Investments in qualified Maryland biotechnology companies located in Allegany, Dorchester, Garrett, or Somerset counties or in a Regional Institution Strategic Enterprise Zone (subject to certain requirements) are eligible for an enhanced credit equal to 50% of the qualified investment, up to \$500,000. Qualified opportunity funds that invest in qualified companies located in an opportunity zone are also eligible for certain enhanced credits for tax years 2019 through 2026.

Commerce administers the tax credit application, approval, and certification process. Tax credit awards are subject to annual appropriations to the BIITC Reserve Fund; Commerce may not certify eligibility for tax credits for investments in a single qualified company that exceed 10% of the total appropriations to the BIITC Reserve Fund for the fiscal year. The Comptroller must transfer the amount of certified credits from the reserve fund to the general fund on a quarterly basis. The BIITC program statute specifies that the Governor must include an annual appropriation to the reserve fund but does not specify a required funding level. Commerce may not issue any tax credit certificates under the BIITC program after fiscal 2028.

State Expenditures:

Biotechnology Investment Incentive Grant Program Fund

As noted above, the bill requires the Governor to include in the annual budget bill an appropriation of \$10.0 million to the grant program fund – the successor to the newly repealed BIITC Reserve Fund. Existing statute requires the Governor to include an annual appropriation to the reserve fund but does not specify a required funding amount.

Consistent with historic funding levels, the fiscal 2027 budget as introduced includes a \$12.0 million appropriation to the reserve fund, including \$4.7 million in general funds and \$7.3 million in special funds (reflecting the anticipated unused fund balance to be carried over from fiscal 2026).

This analysis assumes that the Governor continues to fund the newly converted program at a level consistent with historic appropriations to the BIITC Reserve Fund and, thus, overall general and special fund expenditures for biotechnology investment incentives are unaffected. However, to the extent the bill's changes increase demand for biotechnology investment incentives, general fund expenditures may increase in fiscal 2028 to maintain the historic funding level (or meet the minimum required \$10.0 million appropriation) as fewer unused funds are available to be carried over from fiscal 2027. Any such effect cannot be reliably predicted.

Though not clearly specified in the bill, this analysis also assumes that annual appropriations to the grant program fund are no longer required after fiscal 2028, following the termination of the program.

Commerce Administrative Expenses

The BIITC program is currently administered by two full-time tax specialists. Commerce advises that, though the bill does not substantively alter program eligibility or certification requirements, the conversion of the existing tax credit program to a grant program changes and increases the administrative demands of the program on Commerce such that a regular full-time grants associate is needed. However, the Department of Legislative Services (DLS) notes that any additional workload generated by the bill is temporary, given the program's June 30, 2028 sunset date. Accordingly, DLS assumes that any temporary increase in grant administration duties resulting from the bill can likely be handled with existing budgeted resources. However, to the extent additional personnel support is required, general fund expenditures for Commerce may increase by about \$68,000 in fiscal 2027 (assuming a 90-day start-up delay) and \$77,000 in fiscal 2028 to hire one temporary contractual grants associate.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 247 (Senator Beidle) - Budget and Taxation.

Information Source(s): Department of Commerce; Comptroller's Office; Department of Budget and Management; Department of Legislative Services

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sj/jrb

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