

# SENATE BILL 249

Q3, M4  
SB 280/15 – B&T

EMERGENCY BILL

6lr2221

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By: **Senator Middleton**

Introduced and read first time: January 22, 2016

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Income Tax Credit – Qualified Farms – Food Donation Pilot Program**

3 FOR the purpose of allowing certain qualified farms a credit, up to a certain amount,  
4 against the State income tax equal to a certain percentage of the value of certain food  
5 donations; providing for the carry forward of the credit; providing for the calculation  
6 of the amount of the credit; requiring the Secretary of Agriculture to establish certain  
7 values on a weekly basis; requiring the Secretary, in consultation with the  
8 Comptroller, to establish a certain certification procedure for certain tax credit  
9 administrators; requiring a tax credit certificate administrator that receives a  
10 certain donation to issue a certain tax credit certificate; requiring that a tax credit  
11 certificate contain certain information; requiring the Secretary, in consultation with  
12 the Comptroller, to prepare certain tax credit certificate forms; requiring the  
13 Secretary to notify certain administrators to stop issuing certain certificates if a  
14 certain limit is reached; providing that the total amount of tax credit certificates  
15 issued may not exceed a certain amount for certain fiscal years; requiring that the  
16 Secretary, in consultation with the Comptroller and the Task Force to Study the  
17 Implementation of a Hub and Spoke Program in the Southern Maryland Region  
18 submit a certain report by a certain date each year; reestablishing the Task Force to  
19 Study the Implementation of a Hub and Spoke Program in the Southern Maryland  
20 Region; providing for the composition, chair, and staffing of the Task Force;  
21 prohibiting a member of the Task Force from receiving certain compensation;  
22 requiring the Task Force to study and make recommendations regarding certain  
23 matters; requiring the Task Force to report its findings and recommendations to the  
24 Secretary and the General Assembly on or before a certain date each year; requiring  
25 the Secretary, in consultation with the Comptroller, to adopt certain regulations;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 defining certain terms; providing for the effective date of certain provisions of this  
2 Act; providing for the termination of certain provisions of this Act; making this Act  
3 an emergency measure; and generally relating to a tax credit for certain food  
4 donations.

5 BY adding to

6 Article – Tax – General

7 Section 10–737

8 Annotated Code of Maryland

9 (2010 Replacement Volume and 2015 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
11 That the Laws of Maryland read as follows:

12 **Article – Tax – General**

13 **10–737.**

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

16 (2) “CERTIFIED ORGANIC PRODUCE” MEANS AN ELIGIBLE FOOD  
17 DONATION THAT IS CERTIFIED UNDER TITLE 10, SUBTITLE 14 OF THE  
18 AGRICULTURE ARTICLE AS AN ORGANICALLY PRODUCED COMMODITY.

19 (3) “ELIGIBLE FOOD DONATION” MEANS FRESH FARM PRODUCTS FOR  
20 HUMAN CONSUMPTION.

21 (4) “QUALIFIED FARM” MEANS A FARM BUSINESS THAT IS LOCATED  
22 IN ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY, MONTGOMERY  
23 COUNTY, PRINCE GEORGE’S COUNTY, OR ST. MARY’S COUNTY.

24 (5) “SECRETARY” MEANS THE SECRETARY OF AGRICULTURE OR THE  
25 SECRETARY’S DESIGNEE.

26 (6) “TAX CREDIT CERTIFICATE ADMINISTRATOR” MEANS A PERSON  
27 OR AN ORGANIZATION THAT IS AUTHORIZED BY THE STATE DEPARTMENT OF  
28 AGRICULTURE UNDER SUBSECTION (E) OF THIS SECTION TO RECEIVE ELIGIBLE  
29 FOOD DONATIONS.

30 (B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR A TAXABLE  
31 YEAR BEGINNING AFTER DECEMBER 31, 2015, BUT BEFORE JANUARY 1, 2019, A  
32 QUALIFIED FARM MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE  
33 AMOUNT STATED ON ANY TAX CREDIT CERTIFICATES ISSUED TO THE QUALIFIED  
34 FARM DURING THE TAXABLE YEAR.

1           **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
2 **PARAGRAPH, FOR ANY TAXABLE YEAR, THE AGGREGATE AMOUNT OF CREDITS**  
3 **AUTHORIZED UNDER THIS SUBSECTION FOR A QUALIFIED FARM MAY NOT EXCEED**  
4 **\$5,000.**

5           **(II) FOR ANY TAXABLE YEAR, THE SECRETARY MAY INCREASE**  
6 **THE CREDIT LIMITATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A**  
7 **QUALIFIED FARM BY AN AMOUNT NOT TO EXCEED \$5,000.**

8           **(3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE**  
9 **STATE INCOME TAX, ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED**  
10 **FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

11           **(I) THE DATE ON WHICH THE FULL AMOUNT OF THE CREDIT IS**  
12 **USED; OR**

13           **(II) THE DATE OF THE EXPIRATION OF THE 5TH YEAR AFTER**  
14 **THE TAXABLE YEAR FOR WHICH THE CREDIT WAS ALLOWED.**

15           **(C) (1) A QUALIFIED FARM THAT MAKES AN ELIGIBLE FOOD DONATION IS**  
16 **ELIGIBLE FOR A TAX CREDIT CERTIFICATE WITH A STATED TAX CREDIT AMOUNT**  
17 **EQUAL TO 50% OF THE VALUE OF THE ELIGIBLE FOOD DONATION.**

18           **(2) A QUALIFIED FARM THAT MAKES A DONATION OF CERTIFIED**  
19 **ORGANIC PRODUCE IS ELIGIBLE FOR A TAX CREDIT CERTIFICATE WITH A STATED**  
20 **TAX CREDIT AMOUNT EQUAL TO 75% OF THE VALUE OF THE DONATED CERTIFIED**  
21 **ORGANIC PRODUCE.**

22           **(D) (1) EACH WEEK THE SECRETARY SHALL ESTABLISH AND PUBLISH**  
23 **THE CATEGORIES AND VALUE OF CERTIFIED ORGANIC PRODUCE AND ELIGIBLE**  
24 **FOOD DONATIONS.**

25           **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**  
26 **THE VALUE OF EACH CATEGORY OF CERTIFIED ORGANIC PRODUCE AND ELIGIBLE**  
27 **FOOD DONATIONS IS THE WHOLESALE VALUE OF THE CATEGORY ESTABLISHED BY**  
28 **THE STATE DEPARTMENT OF AGRICULTURE AND BASED ON UNITED STATES**  
29 **DEPARTMENT OF AGRICULTURE REPORTS ON MARYLAND PRODUCTS SOLD AT**  
30 **MARYLAND MARKETS.**

31           **(3) IF THE SECRETARY DETERMINES THAT THE VALUE ESTABLISHED**  
32 **UNDER PARAGRAPH (2) OF THIS SUBSECTION IS INSUFFICIENT TO PAY FOR THE**  
33 **COST OF HARVESTING A CATEGORY OF CERTIFIED ORGANIC PRODUCE OR ELIGIBLE**

1 FOOD DONATION, THE SECRETARY MAY ESTABLISH A VALUE IN EXCESS OF THE  
2 VALUE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

3 (E) (1) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,  
4 SHALL ESTABLISH A PROCESS TO CERTIFY A PERSON OR AN ORGANIZATION TO ACT  
5 AS A TAX CREDIT CERTIFICATE ADMINISTRATOR.

6 (2) A TAX CREDIT CERTIFICATE ADMINISTRATOR THAT RECEIVES A  
7 DONATION OF CERTIFIED ORGANIC PRODUCE OR AN ELIGIBLE FOOD DONATION  
8 FROM A QUALIFIED FARM SHALL ISSUE THE QUALIFIED FARM A TAX CREDIT  
9 CERTIFICATE.

10 (3) THE TAX CREDIT CERTIFICATE SHALL:

11 (I) STATE THE DATE OF THE DONATION;

12 (II) IDENTIFY THE QUALIFIED FARM;

13 (III) DESCRIBE THE TYPE OF DONATION;

14 (IV) STATE THE WEIGHT OF THE DONATION;

15 (V) IDENTIFY THE VALUE OF THE DONATION;

16 (VI) STATE THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR  
17 WHICH THE QUALIFIED FARM IS ELIGIBLE; AND

18 (VII) PROVIDE ANY OTHER INFORMATION THE STATE  
19 DEPARTMENT OF AGRICULTURE OR COMPTROLLER REQUIRES.

20 (4) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER,  
21 SHALL PREPARE TAX CREDIT CERTIFICATE FORMS FOR THE USE OF THE TAX CREDIT  
22 CERTIFICATE ADMINISTRATORS.

23 (5) WITHIN 30 DAYS AFTER ISSUING A TAX CREDIT CERTIFICATE, THE  
24 TAX CREDIT CERTIFICATE ADMINISTRATOR SHALL PROVIDE A COPY OF THE TAX  
25 CREDIT CERTIFICATE TO THE SECRETARY AND THE COMPTROLLER.

26 (6) (I) THE SECRETARY SHALL NOTIFY EACH TAX CREDIT  
27 CERTIFICATE ADMINISTRATOR TO STOP ISSUING TAX CREDIT CERTIFICATES IF THE  
28 AMOUNT OF TAX CREDIT CERTIFICATES ISSUED DURING THE FISCAL YEAR EQUALS  
29 OR EXCEEDS THE AMOUNT OF TAX CREDIT CERTIFICATES AUTHORIZED TO BE  
30 ISSUED DURING THE FISCAL YEAR UNDER SUBSECTION (F) OF THIS SECTION LESS  
31 \$50,000.

1                   **(II) THE SECRETARY, IN CONSULTATION WITH THE**  
2 **COMPTROLLER, SHALL ADOPT REGULATIONS PROVIDING PROCEDURES TO ISSUE**  
3 **THE REMAINING \$50,000 OF TAX CREDIT CERTIFICATES UNDER THIS PARAGRAPH.**

4           **(F) (1) FOR EACH FISCAL YEAR, THE TOTAL AMOUNT OF TAX CREDIT**  
5 **CERTIFICATES ISSUED UNDER THIS SECTION MAY NOT EXCEED \$250,000.**

6                   **(2) IF THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED**  
7 **DURING ANY FISCAL YEAR TOTALS LESS THAN THE MAXIMUM AMOUNT PROVIDED**  
8 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY EXCESS AMOUNT MAY BE**  
9 **CARRIED FORWARD AND ISSUED UNDER TAX CREDIT CERTIFICATES IN A**  
10 **SUBSEQUENT FISCAL YEAR.**

11                   **(3) A TAX CREDIT CERTIFICATE MAY NOT BE ISSUED AFTER**  
12 **DECEMBER 31, 2018.**

13           **(G) ON OR BEFORE JANUARY 1 EACH YEAR, THE SECRETARY, IN**  
14 **CONSULTATION WITH THE COMPTROLLER AND THE TASK FORCE TO STUDY THE**  
15 **IMPLEMENTATION OF A HUB AND SPOKE PROGRAM IN THE SOUTHERN MARYLAND**  
16 **REGION, SHALL SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246**  
17 **OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE USE AND**  
18 **IMPACT OF THE TAX CREDIT ESTABLISHED UNDER THIS SECTION.**

19           **(H) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL**  
20 **ADOPT REGULATIONS TO ADMINISTER THIS SECTION.**

21           SECTION 2. AND BE IT FURTHER ENACTED, That:

22           (a) There is a Task Force to Study the Implementation of a Hub and Spoke  
23 Program in the Southern Maryland Region, including Anne Arundel County, Calvert  
24 County, Charles County, Montgomery County, Prince George's County, and St. Mary's  
25 County, to provide the low-income, working poor, and unemployed populations of that  
26 region with fresh farm products.

27           (b) The Task Force consists of the following members:

28                   (1) one member of the Senate of Maryland, appointed by the President of  
29 the Senate;

30                   (2) one member of the House of Delegates, appointed by the Speaker of the  
31 House;

32                   (3) the Secretary of Agriculture, or the Secretary's designee;

1 (4) the Comptroller, or the Comptroller's designee; and

2 (5) the following members, appointed by the Governor:

3 (i) a representative of the Southern Maryland Agricultural  
4 Development Commission;

5 (ii) a representative of the Southern Maryland Ministers Alliance;  
6 and

7 (iii) a representative of Farming 4 Hunger.

8 (c) The Governor shall designate the chair of the Task Force.

9 (d) The Southern Maryland Agricultural Development Commission shall provide  
10 staff for the Task Force.

11 (e) A member of the Task Force:

12 (1) may not receive compensation as a member of the Task Force; but

13 (2) is entitled to reimbursement for expenses under the Standard State  
14 Travel Regulations, as provided in the State budget.

15 (f) The Task Force shall:

16 (1) assess the nutritional needs of the low-income, working poor, and  
17 unemployed populations of the Southern Maryland region;

18 (2) study the infrastructure and equipment required to best serve those  
19 needs;

20 (3) make recommendations regarding the locations of collection and  
21 distribution sites throughout the region;

22 (4) make recommendations regarding the operation and management of a  
23 hub and spoke program, including human resources, the collaboration among members of  
24 the agricultural community and antihunger organizations, and processes for collecting and  
25 distributing locally grown farm food;

26 (5) make recommendations regarding education and outreach efforts  
27 throughout the region regarding the hub and spoke program; and

28 (6) study and make recommendations regarding the implementation of the  
29 tax credit established under § 10-737 of the Tax – General Article for qualified farms that  
30 donate food and produce.

1 (g) On or before December 1 each year, the Task Force shall report its findings  
2 and recommendations to the Secretary of Agriculture and, in accordance with § 2-1246 of  
3 the State Government Article, the General Assembly.

4 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
5 effect June 1, 2016. It shall remain effective for a period of 3 years and 1 month and, at the  
6 end of June 30, 2019, with no further action required by the General Assembly, Section 2  
7 of this Act shall be abrogated and of no further force and effect.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
9 measure, is necessary for the immediate preservation of the public health or safety, has  
10 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
11 each of the two Houses of the General Assembly and, except as provided in Section 3 of this  
12 Act, shall take effect from the date it is enacted.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.