

# HOUSE BILL 1308

Q3, Q7  
HB 1188/09 – W&M

1lr2978

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By: **Delegates Gilchrist, Frick, Ivey, Kaiser, A. Miller, Ross, and Stukes**  
Introduced and read first time: February 28, 2011  
Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Tax Incentives and Benefits – Credits and Subtraction Modifications**

3 FOR the purpose of repealing certain credits allowed against certain State taxes;  
4 altering certain tax benefits provided under law by allowing income tax  
5 subtraction modifications in certain amounts under certain circumstances for  
6 purposes of determining Maryland taxable income instead of allowing credits  
7 against income tax liability; repealing certain obsolete provisions; providing for  
8 the application of this Act; and generally relating to tax incentives and benefits  
9 under Maryland tax law.

10 BY repealing

11 Article – Education  
12 Section 21–309  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume and 2010 Supplement)

15 BY repealing

16 Article – Insurance  
17 Section 6–105 and 6–114 through 6–120  
18 Annotated Code of Maryland  
19 (2003 Replacement Volume and 2010 Supplement)

20 BY repealing

21 Article – Tax – General  
22 Section 8–214 through 8–218, 8–220, 8–221, 8–406(b), 8–411 through 8–413,  
23 8–415, 10–205(b), (i), and (j), 10–306(e) and (f), 10–704.1, 10–704.7,  
24 10–704.9, 10–713, and 10–719  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume)

27 BY renumbering

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Article – Tax – General  
2 Section 10–205(c) through (h), 10–702, 10–704.4, 10–704.6, 10–704.8,  
3 10–704.10, 10–707, 10–710, 10–711, 10–714, 10–715, 10–717, 10–718,  
4 10–720 through 10–724, 10–726, and 10–727, respectively  
5 to be Section 10–205(b) through (g), 10–226, 10–229, 10–230, 10–231, 10–232,  
6 10–233, 10–234, 10–235, 10–236, 10–237, 10–238, 10–239, 10–240  
7 through 10–244, 10–245, and 10–246, respectively  
8 Annotated Code of Maryland  
9 (2010 Replacement Volume)
- 10 BY repealing and reenacting, with amendments,  
11 Article – Economic Development  
12 Section 5–707(a)(2) and (b)(3); 6–301(b) and (c)(1), 6–302, 6–303(b) and (c),  
13 6–304 through 6–309 to be under the amended subtitle “Subtitle 3. Job  
14 Creation Tax Benefits”; and 6–401(b), (e), (f), and (h), 6–402 through  
15 6–404, and 6–407 to be under the amended subtitle “Subtitle 4. One  
16 Maryland Economic Development Tax Benefits”  
17 Annotated Code of Maryland  
18 (2008 Volume and 2010 Supplement)
- 19 BY repealing  
20 Article – Economic Development  
21 Section 6–405 and 6–406  
22 Annotated Code of Maryland  
23 (2008 Volume and 2010 Supplement)
- 24 BY repealing and reenacting, with amendments,  
25 Article – Education  
26 Section 21–501(b)(5) and (c) through (e)  
27 Annotated Code of Maryland  
28 (2008 Replacement Volume and 2010 Supplement)
- 29 BY repealing and reenacting, with amendments,  
30 Article – Environment  
31 Section 2–901(b) and (c) to be under the amended subtitle “Subtitle 9. Tax  
32 Benefits for Employer–Provided Commuter Benefits”  
33 Annotated Code of Maryland  
34 (2007 Replacement Volume and 2010 Supplement)
- 35 BY repealing  
36 Article – Environment  
37 Section 2–901(d)  
38 Annotated Code of Maryland  
39 (2007 Replacement Volume and 2010 Supplement)
- 40 BY repealing and reenacting, with amendments,  
41 Article – Housing and Community Development  
42 Section 6–401(c), 6–404, and 6–405(c)(2) and (3) and (d)

1 Annotated Code of Maryland  
2 (2006 Volume and 2010 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Labor and Employment  
5 Section 11–702(c) and (f)(3)(ii), 11–704, and 11–705(b)  
6 Annotated Code of Maryland  
7 (2008 Replacement Volume and 2010 Supplement)

8 BY adding to  
9 Article – Tax – General  
10 Section 10–208(a–1), 10–227, 10–228, and 10–308(a–1)  
11 Annotated Code of Maryland  
12 (2010 Replacement Volume)

13 BY repealing and reenacting, with amendments,  
14 Article – Tax – General  
15 Section 10–218(b), 10–306(b), 10–809, and 10–812  
16 Annotated Code of Maryland  
17 (2010 Replacement Volume)

18 BY repealing and reenacting, with amendments,  
19 Article – Tax – General  
20 Section 10–226(a)(4)(ii) and (7)(ii) and (b) through (e), 10–229 through 10–239,  
21 10–240(b), (c), and (e), 10–241(b), (f), and (h), 10–242(a)(7) and (b)  
22 through (k), 10–243, 10–244, 10–245(b), (f), and (g), and 10–246 to be  
23 under the new part “Part V. Additional Adjustments to Determine  
24 Maryland Adjusted Gross Income”  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume)  
27 (As enacted by Section 4 of this Act)

28 BY repealing  
29 Article – Tax – General  
30 Section 10–226(f) and (g), 10–240(d), 10–241(c) through (e) and (g), and  
31 10–245(c) through (e)  
32 Annotated Code of Maryland  
33 (2010 Replacement Volume)  
34 (As enacted by Section 4 of this Act)

35 BY repealing and reenacting, with amendments,  
36 Article – Tax – Property  
37 Section 9–230(a)(3), (b)(2), (c)(3), (d)(5), and (i) through (n)  
38 Annotated Code of Maryland  
39 (2007 Replacement Volume and 2010 Supplement)

40 BY repealing  
41 Article – Tax – Property

1 Section 9–230(e) through (h)  
 2 Annotated Code of Maryland  
 3 (2007 Replacement Volume and 2010 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 5 MARYLAND, That Section(s) 21–309 of Article – Education of the Annotated Code of  
 6 Maryland be repealed.

7 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6–105 and  
 8 6–114 through 6–120 of Article – Insurance of the Annotated Code of Maryland be  
 9 repealed.

10 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 8–214 through  
 11 8–218, 8–220, 8–221, 8–406(b), 8–411 through 8–413, 8–415, 10–205(b), (i), and (j),  
 12 10–306(e) and (f), 10–704.1, 10–704.7, 10–704.9, 10–713, and 10–719 of  
 13 Article – Tax – General of the Annotated Code of Maryland be repealed.

14 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 10–205(c)  
 15 through (h), 10–702, 10–704.4, 10–704.6, 10–704.8, 10–704.10, 10–707, 10–710,  
 16 10–711, 10–714, 10–715, 10–717, 10–718, 10–720 through 10–724, 10–726, and  
 17 10–727, respectively, of Article – Tax – General of the Annotated Code of Maryland be  
 18 renumbered to be Section(s) 10–205(b) through (g), 10–226, 10–229, 10–230, 10–231,  
 19 10–232, 10–233, 10–234, 10–235, 10–236, 10–237, 10–238, 10–239, 10–240 through  
 20 10–244, 10–245, and 10–246, respectively.

21 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 22 read as follows:

### 23 Article – Economic Development

24 5–707.

25 (a) To the extent provided for in this section, a business entity is entitled to:

26 (2) the income tax [credits] **BENEFITS** in [§ 10–702] **§ 10–226** of the  
 27 Tax – General Article; and

28 (b) A business entity that moves into or locates in an enterprise zone on or  
 29 after the date that the enterprise zone is designated under § 5–704 of this subtitle may  
 30 benefit from the incentives and initiatives in this section if:

31 (3) the business entity creates new or additional jobs or makes a  
 32 capital investment to qualify for the property tax credit under § 9–103 of the  
 33 Tax – Property Article and the income tax [credits] **BENEFITS** under [§ 10–702] **§**  
 34 **10–226** of the Tax – General Article; and

35 Subtitle 3. Job Creation Tax [Credit] **BENEFITS**.

1 6–301.

2 (b) [“Credit] **“BENEFIT year”** means the taxable year in which a qualified  
3 business entity claims the [credit] **SUBTRACTION MODIFICATION** allowed in  
4 accordance with § 6–304(a) of this subtitle.

5 (c) (1) “Qualified business entity” means a person conducting or operating  
6 a trade or business in the State that is certified in accordance with § 6–303 of this  
7 subtitle as qualifying for the tax [credit] **BENEFIT** under this subtitle.

8 6–302.

9 The General Assembly intends that the purpose of the job creation tax [credit]  
10 **SUBTRACTION MODIFICATION** authorized under this subtitle is to increase the  
11 number of new jobs in the State by encouraging:

12 (1) the expansion of existing private sector enterprises; and

13 (2) the establishment or attraction of new private sector enterprises.

14 6–303.

15 (b) To be eligible for a tax [credit] **BENEFIT** under this subtitle, a person  
16 shall establish or expand a business facility in the State that:

17 (1) during any 24–month period creates at least:

18 (i) 60 qualified positions;

19 (ii) 30 qualified positions if the aggregate payroll for the  
20 qualified positions is greater than a threshold amount equal to the product of  
21 multiplying 60 times the State’s average annual salary, as determined by the  
22 Department; or

23 (iii) 25 qualified positions if the business facility established or  
24 expanded is located in a State priority funding area; and

25 (2) is primarily engaged in:

26 (i) manufacturing or mining;

27 (ii) transportation or communications;

28 (iii) agriculture, forestry, or fishing;

29 (iv) research, development, or testing;

1 (v) biotechnology;

2 (vi) computer programming, information technology, or other  
3 computer-related services;

4 (vii) central services for a business entity engaged in financial  
5 services, real estate services, or insurance services;

6 (viii) the operation of central administrative offices;

7 (ix) the operation of a company headquarters other than the  
8 headquarters of a professional sports organization;

9 (x) the operation of a public utility;

10 (xi) warehousing;

11 (xii) business services, if the business facility established or  
12 expanded is located in a State priority funding area; or

13 (xiii) entertainment, recreation, cultural, or tourism-related  
14 activities in a multi-use facility located within a revitalization area if the facility:

15 1. generates a minimum of 1,000 new full-time  
16 equivalent filled positions in a 24-month period; and

17 2. is not primarily used by a professional sports  
18 franchise or for gaming.

19 (c) To be certified as a qualified business entity for a tax [credit] **BENEFIT**  
20 under this subtitle, a person shall submit to the Department an application that  
21 specifies:

22 (1) the effective date of the start-up or expansion;

23 (2) the number of full-time employees existing before the start-up or  
24 expansion and the payroll of the existing employees;

25 (3) the number of qualified positions created and qualified employees  
26 hired and the payroll of the new qualified employees; and

27 (4) any other information that the Department requires by regulation.

28 6-304.

1 (a) (1) A qualified business entity may claim [a tax credit] **AN INCOME**  
2 **TAX SUBTRACTION MODIFICATION** in the amount determined under this section.

3 (2) A qualified business entity shall submit to the [appropriate State  
4 units] **COMPTROLLER**, with the tax return on which the [credit] **SUBTRACTION**  
5 **MODIFICATION** is claimed, certification from the Department that the business entity  
6 has met the requirements of this subtitle and is eligible for the [credit] **SUBTRACTION**  
7 **MODIFICATION**.

8 (b) (1) Except as provided in this section, the [credit] **SUBTRACTION**  
9 **MODIFICATION** earned under this section:

10 (i) for qualified employees working in a facility not located in a  
11 revitalization area, is the lesser of:

12 1. \$1,000 multiplied by the number of qualified  
13 employees employed by the qualified business entity during the [credit] **BENEFIT**  
14 year; and

15 2. 2.5% of the wages paid by the qualified business  
16 entity during the [credit] **BENEFIT** year to the qualified employees; and

17 (ii) for qualified employees working in a facility located in a  
18 revitalization area, is the lesser of:

19 1. \$1,500 multiplied by the number of qualified  
20 employees employed by the qualified business entity during the [credit] **BENEFIT**  
21 year; and

22 2. 5% of the wages paid by the qualified business entity  
23 during the [credit] **BENEFIT** year to the qualified employees.

24 (2) The [credit] **SUBTRACTION MODIFICATION** earned by a qualified  
25 business entity under this subtitle may not exceed \$1,000,000 for any [credit]  
26 **BENEFIT** year.

27 (c) [(1)] The [credit] **SUBTRACTION MODIFICATION** earned under  
28 subsection (b) of this section shall be taken over a 2-year period, with one-half of the  
29 [credit] **SUBTRACTION MODIFICATION** amount allowed each year beginning with the  
30 [credit] **BENEFIT** year.

31 [(2)] The same credit cannot be applied more than once against different  
32 taxes by the same taxpayer.

33 (3) If the credit allowed under this subtitle exceeds the total tax  
34 otherwise due from a qualified business entity in a taxable year, the qualified business

1 entity may apply the excess as a credit for succeeding taxable years until the earlier  
2 of:

3 (i) the full amount of the excess is used; or

4 (ii) the expiration of the 5th taxable year from the credit year.

5 (4) The credit under this subtitle may not be carried back to a  
6 preceding taxable year.]

7 6–305.

8 (a) If, during any of the 3 years after the [credit] **BENEFIT** year, the number  
9 of qualified positions of the qualified business entity falls more than 5% below the  
10 average number of qualified positions that existed during the [credit] **BENEFIT** year  
11 on which the [credit] **SUBTRACTION MODIFICATION** was computed, the [credit]  
12 **SUBTRACTION MODIFICATION** shall be recaptured as follows:

13 (1) the [credit] **SUBTRACTION MODIFICATION** shall be recomputed  
14 and reduced by the percentage reduction of the number of qualified employees;

15 (2) the recomputed [credit] **SUBTRACTION MODIFICATION** shall be  
16 subtracted from the amount of [credit] **SUBTRACTION MODIFICATION** previously  
17 allowed; and

18 (3) the qualified business entity shall [pay] **ADD** the difference [as  
19 taxes payable to the State] **TO MARYLAND TAXABLE INCOME** for the taxable year in  
20 which the number of qualified positions falls more than 5% below the average number  
21 of qualified positions during the [credit] **BENEFIT** year.

22 (b) If, during any of the 3 years after the [credit] **BENEFIT** year, the average  
23 number of qualified positions falls below the applicable threshold number of positions  
24 required under § 6–303(b)(1) of this subtitle, all [credits] **BENEFITS** earned shall be  
25 recaptured.

26 (c) (1) During the 3 taxable years after the [credit] **BENEFIT** year, a  
27 qualified business entity shall provide any information required by the Department in  
28 regulation to verify that the qualified business entity is not subject to subsection (a) or  
29 (b) of this section.

30 (2) The Department may require that any information provided under  
31 this subsection be verified by an independent auditor that the qualified business entity  
32 selects.

33 6–306.



1 (a) The Comptroller [or other appropriate unit] shall share with the  
2 Department any information received from a qualified business entity about eligibility  
3 for a [credit] **BENEFIT** allowed under this subtitle.

4 (b) Information that is received under subsection (a) of this section is subject  
5 to the confidentiality requirements established by statute or regulation that apply to  
6 the Comptroller [or unit that receives the information].

7 6–307.

8 On or before December 31 of each year, the Department shall report to the  
9 Governor and, in accordance with § 2–1246 of the State Government Article, to the  
10 General Assembly on the business entities certified as eligible for job creation tax  
11 [credits] **BENEFITS** in the preceding fiscal year.

12 6–308.

13 (a) Except as otherwise provided in this section, the Secretary shall adopt  
14 regulations to carry out this subtitle.

15 (b) The Comptroller shall adopt regulations to provide for the computation[,  
16 carryover,] and recapture of the [credit under § 10–704.4 of the Tax – General Article]  
17 **SUBTRACTION MODIFICATION**.

18 [(c) The State Department of Assessments and Taxation shall adopt  
19 regulations to provide for the computation, carryover, and recapture of the credit  
20 under §§ 8–214 and 8–411 of the Tax – General Article.

21 (d) The Insurance Commissioner shall adopt regulations to provide for the  
22 computation, carryover, and recapture of the credit under § 6–114 of the Insurance  
23 Article.]

24 6–309.

25 (a) (1) Subject to paragraph (2) of this subsection, this subtitle and the  
26 tax [credit] **BENEFIT** authorized under it shall terminate on January 1, 2014.

27 (2) As provided in this subtitle, for taxable years beginning on or after  
28 January 1, 2014, tax [credits] **BENEFITS** earned in [credit] **BENEFIT** years beginning  
29 before January 1, 2014 may be allowed ratably over a 2–year period[, may be carried  
30 forward,] and are subject to recapture in accordance with § 6–305 of this subtitle.

31 (b) The tax [credit] **BENEFIT** authorized under this subtitle:

32 (1) may be claimed only for qualified positions at a newly established  
33 or expanded business facility that commences operations before January 1, 2013; and

1           (2)    may not be earned for a [credit] **BENEFIT** year beginning on or  
2 after January 1, 2014.

3           Subtitle 4. One Maryland Economic Development Tax [Credit] **BENEFITS**.

4   6–401.

5           (b)    “Eligible economic development project” means an economic development  
6 project that:

7           (1)    establishes or expands a business facility within a qualified  
8 distressed county; and

9           (2)    is approved for a project tax [credit] **BENEFIT** or a start–up tax  
10 [credit] **BENEFIT** in accordance with this subtitle.

11           (e)    “Project tax [credit] **BENEFIT**” means [a tax credit] **AN INCOME TAX**  
12 **SUBTRACTION MODIFICATION** for eligible project costs allowed under § 6–403 of this  
13 subtitle.

14           (f)    “Qualified business entity” means a person that:

15           (1)    (i)    conducts or operates a trade or business in the State; or

16                   (ii)   operates in the State and is exempt from taxation under §  
17 501(c)(3) or (4) of the Internal Revenue Code; and

18           (2)    is certified in accordance with § 6–402 of this subtitle as qualifying  
19 for a project tax [credit] **BENEFIT** or a start–up tax [credit] **BENEFIT** under this  
20 subtitle.

21           (h)    “Start–up tax [credit] **BENEFIT**” means [a tax credit] **AN INCOME TAX**  
22 **SUBTRACTION MODIFICATION** for eligible start–up costs allowed under § 6–404 of  
23 this subtitle.

24   6–402.

25           (a)    (1)    To qualify for a project tax [credit] **BENEFIT** or a start–up tax  
26 [credit] **BENEFIT**, a person shall be certified by the Secretary as meeting the  
27 requirements of this subtitle and as being eligible for the tax [credit] **BENEFIT**.

28                   (2)    The Secretary may not certify a person as a qualified business  
29 entity unless the person notifies the Department of its intent to seek certification  
30 before hiring any qualified employees to fill the qualified positions necessary to satisfy  
31 the employment threshold under subsection (b)(2) of this section.

1 (b) To be eligible for a project tax [credit] BENEFIT or a start-up tax [credit]  
2 BENEFIT, a person shall:

3 (1) establish or expand a business facility that:

4 (i) is located in a qualified distressed county; and

5 (ii) 1. is located in a priority funding area under § 5-7B-02  
6 of the State Finance and Procurement Article; or

7 2. is eligible for funding outside of a priority funding  
8 area under § 5-7B-05 or § 5-7B-06 of the State Finance and Procurement Article;

9 (2) during any 24-month period, create at least 25 qualified positions  
10 at the new or expanded business facility; and

11 (3) be primarily engaged at the new or expanded business facility in  
12 any combination of:

13 (i) manufacturing or mining;

14 (ii) transportation or communications;

15 (iii) filmmaking, resort business, or recreational business;

16 (iv) agriculture, forestry, or fishing;

17 (v) research, development, or testing;

18 (vi) biotechnology;

19 (vii) computer programming, information technology, or other  
20 computer-related services;

21 (viii) central services for a business entity engaged in financial  
22 services, real estate services, or insurance services;

23 (ix) the operation of central administrative offices;

24 (x) the operation of a company headquarters other than the  
25 headquarters of a professional sports organization;

26 (xi) the operation of a public utility;

27 (xii) warehousing; or

28 (xiii) other business services.

1 (c) To be certified as a qualified business entity for a project tax [credit]  
2 **BENEFIT** or a start-up tax [credit] **BENEFIT**, a person shall submit to the Secretary  
3 an application that specifies:

4 (1) the effective date of the start-up or expansion;

5 (2) the number of full-time employees before the start-up or  
6 expansion and the payroll of the existing employees;

7 (3) the number of qualified positions created and qualified employees  
8 hired and the payroll of the new qualified employees; and

9 (4) any other information that the Secretary requires by regulation.

10 (d) The Secretary may require any information required under this section to  
11 be verified by an independent auditor that the qualified business entity selects.

12 6-403.

13 (a) (1) A qualified business entity may claim [a project tax credit] **AN**  
14 **INCOME TAX SUBTRACTION MODIFICATION** for the cost of an eligible economic  
15 development project in a qualified distressed county if the total eligible project cost for  
16 the eligible economic development project is at least \$500,000.

17 (2) A qualified business entity is not entitled to a project tax [credit]  
18 **BENEFIT** for a cost incurred before notifying the Department of its intent to seek  
19 certification as qualifying for the project tax [credit] **BENEFIT**.

20 (b) (1) Subject to the limitation in paragraph (2) of this subsection, the  
21 project tax [credit] **BENEFIT** allowed under this section is the lesser of \$5,000,000 and  
22 the total eligible project cost for the eligible economic development project, less the  
23 amount of the [credit] **BENEFIT** previously taken for the project in prior taxable years.

24 (2) Except as provided in [subsections (e) and (f)] **SUBSECTION (D)** of  
25 this section, the project tax [credit] **BENEFIT** allowed in a taxable year may not exceed  
26 [the State tax for that year on] the qualified business entity's income generated by or  
27 arising out of the eligible economic development project, as determined under  
28 [subsections (c) and (d)] **SUBSECTION (C)** of this section.

29 (c) [(1) This subsection does not apply to a person subject to taxation  
30 under Title 6 of the Insurance Article.

31 (2) The State tax for the taxable year on a qualified business entity's  
32 income generated by or arising out of an eligible economic development project equals  
33 the difference between:

1 (i) the State tax without regard to this subtitle; and

2 (ii) the State tax on the qualified business entity's Maryland  
3 taxable income reduced by the amount of its net income attributable to the eligible  
4 economic development project.]

5 **[(3) (1)** If an eligible economic development project is a totally  
6 separate facility, net income attributable to the project shall be determined under the  
7 separate accounting method reflecting only the gross income, deductions, expenses,  
8 gains, and losses that are directly attributable to the facility and the overhead  
9 expenses apportioned to the facility.

10 **[(4) (2)** If the eligible economic development project is an expansion  
11 to a previously existing facility:

12 (i) net income attributable to the entire facility shall be  
13 determined under the separate accounting method reflecting only the gross income,  
14 deductions, expenses, gains, and losses that are directly attributable to the facility and  
15 the overhead expenses apportioned to the facility; and

16 (ii) net income attributable to the eligible economic development  
17 project shall be determined by apportioning the net income of the entire facility, as  
18 calculated under item (i) of this paragraph, to the eligible economic development  
19 project by a formula approved by the Comptroller [or the State Department of  
20 Assessments and Taxation].

21 **[(5) (3)** If the Comptroller [or the State Department of Assessments  
22 and Taxation] is satisfied that the nature and activities of a qualified business entity  
23 make it impractical to use the separate accounting method, the qualified business  
24 entity shall determine net income from the eligible economic development project  
25 using an alternative method approved by the Comptroller [or the State Department of  
26 Assessments and Taxation].

27 **[(d)** A qualified business entity that is subject to taxation under Title 6 of the  
28 Insurance Article may not claim the project tax credit for the taxable year in which the  
29 project is placed in service or for the next 4 taxable years.]

30 **[(e) (D)** If the eligible project cost for the eligible economic development  
31 project exceeds [the State tax on] the qualified business entity's income generated by  
32 or arising out of the project for the taxable year in which the project is placed in  
33 service, the qualified business entity may apply any excess as a project tax [credit]  
34 **BENEFIT** for succeeding taxable years against [the State tax on] the qualified  
35 business entity's income generated by or arising out of the project until the earlier of:

36 (1) the full amount of the excess is used; or

1           (2)    the expiration of the 14th taxable year following the taxable year  
2 in which the project is placed in service.

3           [(f) (1)   Subject to the limitation in paragraph (4) of this subsection and  
4 subject to § 6–405 of this subtitle, this subsection applies to any taxable year after the  
5 4th but before the 15th taxable year following the taxable year in which the project is  
6 placed in service.

7           (2)    A qualified business entity other than a person subject to taxation  
8 under Title 6 of the Insurance Article may:

9                   (i)    apply any excess of eligible project costs for the eligible  
10 economic development project over the cumulative amount used as a project tax credit  
11 for the taxable year and all prior taxable years as a tax credit against the State tax for  
12 the taxable year on the qualified business entity’s income other than income generated  
13 by or arising out of the project; and

14                   (ii)   claim a refund in the amount, if any, by which the unused  
15 excess exceeds the State tax for the taxable year on the qualified business entity’s  
16 income other than income generated by or arising out of the project.

17           (3)    A qualified business entity that is subject to taxation under Title 6  
18 of the Insurance Article may:

19                   (i)    apply any excess of eligible project costs for the eligible  
20 economic development project over the cumulative amount used as a project tax credit  
21 for the taxable year and all prior taxable years as a tax credit against the premium tax  
22 imposed for the taxable year; and

23                   (ii)   claim a refund in the amount, if any, by which the unused  
24 excess exceeds the premium tax for the taxable year.

25           (4)    For any taxable year, the total amount used as a project tax credit  
26 and claimed as a refund under this subsection may not exceed the amount of tax that  
27 the qualified business entity is required to withhold for the taxable year from the  
28 wages of qualified employees under § 10–908 of the Tax – General Article.]

29           [(g) (E)   A qualified business entity shall attach the certification required  
30 under § 6–402 of this subtitle to the tax return on which the project tax [credit]  
31 **BENEFIT** is claimed.

32 6–404.

33           (a)    (1)   A qualified business entity that locates in a qualified distressed  
34 county may claim [a start–up tax credit] **AN INCOME TAX SUBTRACTION**  
35 **MODIFICATION** in the amount provided in subsection (b) of this section.

1           (2) A qualified business entity is not entitled to a start-up tax [credit]  
2 **BENEFIT** for a cost incurred before notifying the Department of its intent to seek  
3 certification as qualifying for the start-up tax [credit] **BENEFIT**.

4           (b) The [start-up tax credit] **INCOME TAX SUBTRACTION MODIFICATION**  
5 allowed under this section for each taxable year equals the least of:

6           (1) the qualified business entity's total eligible start-up cost  
7 associated with establishing or expanding a business facility in the qualified  
8 distressed county, less the amount of the [credit] **BENEFIT** previously taken for the  
9 project;

10           (2) the product of multiplying \$10,000 times the number of qualified  
11 employees employed at the new or expanded business facility; or

12           (3) \$500,000.

13           (c) If the start-up tax [credit] **BENEFIT** allowed under subsection (b) of this  
14 section for the taxable year in which a qualified business entity locates in a qualified  
15 distressed county exceeds the total [tax otherwise due from] **MARYLAND TAXABLE**  
16 **INCOME OF** the qualified business entity **CALCULATED WITHOUT THE START-UP**  
17 **TAX BENEFIT** for that taxable year, the qualified business entity may apply the excess  
18 as a [credit] **BENEFIT** for succeeding taxable years until the earlier of:

19           (1) the full amount of the excess is used; or

20           (2) the expiration of the 14th taxable year following the taxable year  
21 in which the qualified business entity locates in a qualified distressed county.

22           [(d) (1) Subject to the limitation in paragraph (3) of this subsection and  
23 subject to § 6-405 of this subtitle, this subsection applies to any taxable year after the  
24 4th but before the 15th taxable year following the taxable year in which the qualified  
25 business entity locates in a qualified distressed county.

26           (2) A qualified business entity may claim a refund in the amount, if  
27 any, by which the qualified business entity's eligible start-up cost exceeds the  
28 cumulative amount used as a start-up tax credit for the taxable year and all prior  
29 taxable years.

30           (3) For any taxable year, the total amount claimed as a refund under  
31 this subsection may not exceed the amount of tax that the qualified business entity is  
32 required to withhold for the taxable year from the wages of qualified employees under  
33 § 10-908 of the Tax – General Article.]





1 (c) (1) In order for an employer to be eligible to claim a [tax credit]  
2 **SUBTRACTION MODIFICATION**, each student must be employed by the employer for  
3 200 hours or more.

4 (2) An employer may claim a [tax credit] **SUBTRACTION**  
5 **MODIFICATION** in an amount equal to 15% of the wages paid to each student during  
6 the taxable year under a work-based learning program that has been approved by the  
7 Department as qualifying for the [tax credit] **SUBTRACTION MODIFICATION** under  
8 this section.

9 (3) The cumulative [credit] **SUBTRACTION MODIFICATION** allowed  
10 under this section to an employer in the current taxable year and all previous taxable  
11 years may not exceed \$1,500 per student.

12 [(4) If the credit allowed under this subsection in any taxable year  
13 exceeds the total tax otherwise payable by the employer for that taxable year, the  
14 excess may be carried forward and applied as a credit for succeeding taxable years  
15 until the earlier of:

16 (i) The full amount of excess is used; or

17 (ii) The expiration of the 5th taxable year in which the  
18 contribution was made.]

19 (d) The [tax credit] **SUBTRACTION MODIFICATION** authorized under this  
20 section shall be allowed only for taxable years beginning on or before December 31,  
21 2012.

22 (e) (1) The Department shall adopt regulations to implement this section.

23 (2) (i) The regulations adopted under this subsection shall include  
24 a process for approval of paid work-based learning programs as qualifying for the tax  
25 [credit] **BENEFIT** under this section.

26 (ii) The number of eligible paid work-based learning program  
27 students approved by the Department may not exceed 1,000 for each taxable year.

28 (3) The regulations adopted under this subsection shall include a  
29 process for certifying employers' eligibility for the tax [credit] **BENEFIT** under this  
30 section.

31 (4) The Department may delegate the approval authority for programs  
32 under this section to one or more private industry councils.

### 33 Article – Environment

34 Subtitle 9. Tax [Credits] **BENEFITS** for Employer-Provided Commuter Benefits.

1 2-901.

2 (b) A business entity may claim [a tax credit] **AN INCOME TAX**  
3 **SUBTRACTION MODIFICATION** in an amount equal to 50% of the cost of providing the  
4 following commuter benefits to the business entity's employees:

5 (1) If provided for the purpose of travel between the employee's  
6 residence and place of employment, any portion of the cost of transportation to or from  
7 a location in the State in a vehicle or an instrument that is used to offset any portion  
8 of the cost of transportation to or from a location in the State in a vehicle:

9 (i) With a seating capacity of at least eight adult individuals;  
10 and

11 (ii) At least 80% of the annual mileage of which is incurred:

12 1. For the purpose of transporting individuals between  
13 their residences and their places of employment; and

14 2. On trips where the number of employees transported  
15 together is at least one-half of that vehicle's adult seating capacity;

16 (2) An instrument that:

17 (i) Entitles an individual, at no additional cost or at a reduced  
18 fare, to transportation to or from a location in the State on a publicly or privately  
19 owned mass transit system other than a taxi service; or

20 (ii) Is redeemable at a transit pass sales outlet for the purpose  
21 stated in item (i) of this item; or

22 (3) For an employee who resides or works in the State:

23 (i) A cash in lieu of parking program; or

24 (ii) A guaranteed ride home.

25 (c) The [credit] **SUBTRACTION MODIFICATION** allowed under this section  
26 may not exceed \$50 per individual employee per month.

27 [(d) (1) The credit allowed under this section may not exceed the total tax  
28 otherwise payable by the business entity for that taxable year, determined before the  
29 application of the credit under this section but after the application of any other credit.

30 (2) The unused amount of the credit under this section for any taxable  
31 year may not be carried over to any other taxable year.]

1                   **Article – Housing and Community Development**

2   6–401.

3           (c)   “Business entity” means a person that conducts a trade or business in the  
4   State and is subject to[:

5                   (1)]   the State income tax on individuals or corporations[;

6                   (2)   the public service company franchise tax; or

7                   (3)   the insurance premiums tax].

8   6–404.

9           (a)   [(1)]   For a contribution worth \$500 or more in goods, money, or real  
10   property to an approved project, a business entity or an individual is entitled to [a tax  
11   credit] **AN INCOME TAX SUBTRACTION MODIFICATION** in the amount determined  
12   under subsection (b) of this section.

13                   [(2)   No part of a tax credit under this section may be taken more than  
14   once.]

15           (b)   (1)   Except as provided in paragraph (2) of this subsection, the [credit]  
16   **INCOME TAX SUBTRACTION MODIFICATION** allowed to a business entity or an  
17   individual under this section equals 50% of the amount of contributions:

18                   (i)   that the Department approves under subsection (c) of this  
19   section; and

20                   (ii)   that were made during the taxable year for which the  
21   [credit] **SUBTRACTION MODIFICATION** is claimed.

22           (2)   The [credit] **SUBTRACTION MODIFICATION** allowed under this  
23   section for any taxable year may not exceed [the lesser of:

24                   (i)]   \$250,000[; and

25                   (ii)   the total amount of tax otherwise payable by the business  
26   entity or individual for the taxable year].

27           [(3)   Any excess credit that would be allowed but for the limits of  
28   paragraph (2) of this subsection may be carried over and applied as a credit for up to 5  
29   taxable years after the taxable year in which the contribution was made, until the full  
30   amount of the excess is used.]

1 (c) (1) To qualify for [a credit] **AN INCOME TAX SUBTRACTION**  
2 **MODIFICATION** for a contribution under this section, before making a contribution, a  
3 business entity or an individual shall apply for and receive approval of the  
4 contribution from the Department.

5 (2) Each application for approval of a contribution shall contain:

6 (i) the name of the approved project to which the contribution  
7 will be made;

8 (ii) the amount of the contribution; and

9 (iii) a certification by an independent and unrelated third party  
10 as to the value of any nonmonetary contribution included or, for new goods, an invoice  
11 or receipt certifying the contribution's net cost to the business entity or individual.

12 (3) The Department may not approve an application if it determines  
13 that:

14 (i) the maximum amount of contributions eligible for a [tax  
15 credit] **SUBTRACTION MODIFICATION** for the project for the fiscal year will be  
16 exceeded by the sum of:

17 1. the amount of the proposed contribution; and

18 2. the total amount of contributions previously approved  
19 for that project for the fiscal year; or

20 (ii) the applicant has overstated the value of a nonmonetary  
21 contribution.

22 (4) On or before January 31 of each year, the Department shall report  
23 to [the Department of Assessments and Taxation,] the Comptroller[, and the  
24 Maryland Insurance Administration] the contributions that the Department has  
25 approved under this section in the preceding calendar year.

26 6-405.

27 (c) (2) An approval shall:

28 (i) be in writing; and

29 (ii) state the maximum amount of contributions to the approved  
30 project that are eligible for a [tax credit] **SUBTRACTION MODIFICATION** under §  
31 6-404 of this subtitle.





1 (4) A business entity may not claim the [credit] **SUBTRACTION**  
2 **MODIFICATION** under this section if the business entity is claiming a [tax credit]  
3 **SUBTRACTION MODIFICATION** for the same employee under [§ 10-704.3] **§ 10-228**  
4 of the Tax – General Article [or § 21-309 of the Education Article].

5 (5) (i) If a business entity is entitled to a [tax credit]  
6 **SUBTRACTION MODIFICATION** for an employee who is employed for less than 1 year  
7 because the employee voluntarily terminates employment with the employer to take  
8 another job, the business entity may claim a [tax credit] **SUBTRACTION**  
9 **MODIFICATION** of 30% of up to the first \$6,000 of the wages paid to the employee  
10 during the course of employment.

11 (ii) If a business entity is entitled to a [tax credit]  
12 **SUBTRACTION MODIFICATION** for an employee who is employed for less than 1 year  
13 for a reason other than that described in subparagraph (i) of this paragraph, the  
14 amount of the [credit] **SUBTRACTION MODIFICATION** shall be reduced by the  
15 proportion of a year that the employee did not work.

16 [(d) If the credit allowed under this section in any taxable year exceeds the  
17 total tax otherwise payable by the business entity for that taxable year, a business  
18 entity may apply the excess as a credit for succeeding taxable years until the earlier  
19 of:

20 (1) the full amount of the excess is used; or

21 (2) the expiration of the fifth taxable year after the taxable year in  
22 which the wages for which the credit is claimed are paid.

23 (e) If a credit is claimed under this section, the claimant must make the  
24 addition required in § 10-205 or § 10-306 of the Tax – General Article.]

25 11-705.

26 (b) The Comptroller shall adopt regulations to provide for the computation  
27 [and carryover] of the [credit under § 10-704.10 of the Tax – General Article] **INCOME**  
28 **TAX SUBTRACTION MODIFICATION**.

### 29 Article – Tax – General

30 10-208.

31 **(A-1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**  
32 **INCLUDES THE SUBTRACTIONS ALLOWED UNDER PART V OF THIS SUBTITLE.**

33 10-218.

1 (b) An individual who elects to itemize deductions is allowed as a deduction  
2 the sum of the individual's federal itemized deductions:

3 (1) limited and reduced as required under the Internal Revenue Code;  
4 **AND**

5 (2) [further reduced by any amount deducted under § 170 of the  
6 Internal Revenue Code for contributions of a preservation or conservation easement  
7 for which a credit is claimed under § 10-723 of this title; and

8 (3) further reduced by the amount claimed as taxes on income paid to  
9 a state or political subdivision of a state, after subtracting a pro rata portion of the  
10 reduction to itemized deductions required under § 68 of the Internal Revenue Code.

11 **10-224. RESERVED.**

12 **10-225. RESERVED.**

13 **PART V. ADDITIONAL ADJUSTMENTS TO DETERMINE MARYLAND ADJUSTED**  
14 **GROSS INCOME.**

15 10-226.

16 (a) (4) "Qualified employee" means an individual who:

17 (ii) is employed by a business entity at least 35 hours each week  
18 for at least 6 months before or during the taxable year for which the entity claims a  
19 [credit] **SUBTRACTION MODIFICATION**;

20 (7) "Focus area employee" means an individual who:

21 (ii) is employed by a business entity at least 35 hours each week  
22 for at least 12 months before or during the taxable year for which the entity claims a  
23 [credit] **SUBTRACTION MODIFICATION**;

24 (b) (1) Any business entity that is located in an enterprise zone and  
25 satisfies the requirements of § 5-707 of the Economic Development Article may claim  
26 a [credit only against the State income tax] **SUBTRACTION MODIFICATION** for the  
27 wages specified in subsections (c) and (d) of this section that are paid in the taxable  
28 year for which the entity claims the [credit] **SUBTRACTION MODIFICATION**.

29 (2) A business entity that is located in a focus area and satisfies the  
30 requirements of § 5-707 of the Economic Development Article may claim a [credit only  
31 against the State income tax] **SUBTRACTION MODIFICATION** for the wages specified  
32 in subsection (e) of this section that are paid to a focus area employee in the taxable  
33 year for which the entity claims the [credit] **SUBTRACTION MODIFICATION**.



1            [(3) An organization that is exempt from taxation under § 501(c)(3) or  
2 (4) of the Internal Revenue Code may apply the credit under this section as a credit  
3 against income tax due on unrelated business taxable income as provided under §§  
4 10–304 and 10–812 of this title.]

5            (c) If a business entity does not claim an enhanced [tax credit]  
6 **SUBTRACTION MODIFICATION** under subsection (e) of this section for a focus area  
7 employee, for the taxable year in which a business entity satisfies the requirements of  
8 § 5–707 of the Economic Development Article, a [credit] **SUBTRACTION**  
9 **MODIFICATION** is allowed that equals:

10            (1) up to \$3,000 of the wages paid to each qualified employee who:

11                    (i) is an economically disadvantaged individual; and

12                    (ii) is not hired to replace an individual whom the business  
13 entity employed in that or any of the 3 preceding taxable years; and

14            (2) up to \$1,000 of the wages paid to each qualified employee who:

15                    (i) is not an economically disadvantaged individual; and

16                    (ii) is not hired to replace an individual whom the business  
17 entity employed in that or any of the 3 preceding taxable years.

18            (d) (1) If a business entity does not claim an enhanced [tax credit]  
19 **SUBTRACTION MODIFICATION** under subsection (e) of this section for a focus area  
20 employee, for each taxable year after the taxable year described in subsection (c) of  
21 this section, while the area is designated an enterprise zone, a [credit] **SUBTRACTION**  
22 **MODIFICATION** is allowed that equals:

23                    (i) up to \$3,000 of the wages paid to each qualified employee  
24 who:

25                            1. is an economically disadvantaged individual;

26                            2. became a qualified employee during the taxable year  
27 to which the [credit] **SUBTRACTION MODIFICATION** applies; and

28                            3. is not hired to replace an individual whom the  
29 business entity employed in that or any of the 3 preceding taxable years;

30                    (ii) up to \$2,000 of the wages paid to each qualified employee  
31 who is an economically disadvantaged individual, if the business entity received a  
32 [credit] **SUBTRACTION MODIFICATION** under subsection (c)(1) of this section for the  
33 qualified employee in the immediately preceding taxable year; and

1 (iii) up to \$1,000 of the wages paid to each qualified employee  
2 who is not hired to replace an individual whom the business entity employed in that or  
3 any of the 3 preceding taxable years if the qualified employee:

4 1. is an economically disadvantaged individual for whom  
5 the business entity received a [credit] **SUBTRACTION MODIFICATION** under  
6 subsection (c)(1) of this section or item (i) of this paragraph and a [credit]  
7 **SUBTRACTION MODIFICATION** under item (ii) of this paragraph in the 2 immediately  
8 preceding taxable years; or

9 2. is not an economically disadvantaged individual but  
10 became a qualified employee during the taxable year to which the [credit]  
11 **SUBTRACTION MODIFICATION** applies.

12 (2) A business entity that hires a qualified employee to replace  
13 another qualified employee for whom the business entity received a [credit]  
14 **SUBTRACTION MODIFICATION** under subsection (c)(1) of this section and paragraph  
15 (1)(ii) of this subsection in the immediately preceding taxable year may treat the new  
16 qualified employee as the replacement for the other qualified employee to determine  
17 any [credit] **SUBTRACTION MODIFICATION** that may be available to the business  
18 entity under paragraph (1)(ii) or (iii) of this subsection.

19 (e) (1) For the taxable year in which a business entity satisfies the  
20 requirements of §§ 5–706 and 5–707 of the Economic Development Article, a [credit]  
21 **SUBTRACTION MODIFICATION** is allowed that equals:

22 (i) up to \$4,500 of the wages paid to each focus area employee  
23 who:

24 1. is an economically disadvantaged individual; and  
25 2. is not hired to replace an individual whom the  
26 business entity employed in that year or any of the 3 preceding taxable years; and

27 (ii) up to \$1,500 of the wages paid to each focus area employee  
28 who:

29 1. is not an economically disadvantaged individual; and  
30 2. is not hired to replace an individual whom the  
31 business entity employed in that year or any of the 3 preceding taxable years.

32 (2) For each taxable year after the taxable year described in  
33 paragraph (1) of this subsection, while the area is designated a focus area, a [credit]  
34 **SUBTRACTION MODIFICATION** is allowed that equals:

1 (i) up to \$4,500 of the wages paid to each focus area employee  
2 who:

3 1. is an economically disadvantaged individual;

4 2. became a focus area employee during the taxable year  
5 to which the [credit] **SUBTRACTION MODIFICATION** applies; and

6 3. is not hired to replace an individual whom the  
7 business entity employed in that year or any of the 3 preceding taxable years;

8 (ii) up to \$3,000 of the wages paid to each focus area employee  
9 who is an economically disadvantaged individual, if the business entity received a  
10 [credit] **SUBTRACTION MODIFICATION** under paragraph (1)(i) of this subsection for  
11 the focus area employee in the immediately preceding taxable year; and

12 (iii) up to \$1,500 of the wages paid to each focus area employee  
13 who is not hired to replace an individual whom the business entity employed in that  
14 year or any of the 3 preceding taxable years if the focus area employee:

15 1. is an economically disadvantaged individual for whom  
16 the business entity received a [credit] **SUBTRACTION MODIFICATION** under item (ii)  
17 of this paragraph in the 2 immediately preceding taxable years and under:

18 A. paragraph (1)(i) of this subsection; or

19 B. item (i) of this paragraph; or

20 2. is not an economically disadvantaged individual but  
21 became a focus area employee during the taxable year to which the [credit]  
22 **SUBTRACTION MODIFICATION** applies.

23 (3) A business entity that hires a focus area employee to replace  
24 another focus area employee for whom the business entity received a [credit]  
25 **SUBTRACTION MODIFICATION** under paragraph (1)(i) of this subsection and  
26 paragraph (2)(ii) of this subsection in the immediately preceding taxable year may  
27 treat the focus area employee as the replacement for the other focus area employee to  
28 determine any [credit] **SUBTRACTION MODIFICATION** that may be available to the  
29 business entity under paragraph (2)(ii) or (iii) of this subsection.

30 [(f) If the credit allowed under this section in any taxable year exceeds the  
31 State income tax for that taxable year, a business entity may apply the excess as a  
32 credit against the State income tax for succeeding taxable years until the earlier of:

33 (1) the full amount of the excess is used; or

1           (2)    the expiration of the 5th taxable year from the date on which the  
2 business entity hired the qualified employee to whom the credit first applies.]

3           [(g)   If a credit is claimed under this section, the claimant must make the  
4 addition required in § 10–205, § 10–206, or § 10–306 of this title.]

5   **10–227.**

6           (A)   EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN  
7 INDIVIDUAL OR A CORPORATION IS ALLOWED A SUBTRACTION MODIFICATION IN  
8 THE AMOUNT OF \$3 FOR EACH TON OF MARYLAND–MINED COAL THAT THE  
9 PUBLIC SERVICE COMPANY PURCHASED IN THE TAXABLE YEAR.

10          (B)   THE SUBTRACTION MODIFICATION ALLOWED UNDER THIS SECTION  
11 MAY NOT BE CLAIMED FOR MARYLAND–MINED COAL PURCHASED IN A  
12 CALENDAR YEAR BEGINNING AFTER DECEMBER 31, 2020.

13   **10–228.**

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

16               (2)  “BUSINESS ENTITY” MEANS:

17                   (I)   A PERSON CONDUCTING OR OPERATING A TRADE OR  
18 BUSINESS IN MARYLAND; OR

19                   (II)  AN ORGANIZATION OPERATING IN MARYLAND THAT IS  
20 EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL  
21 REVENUE CODE.

22               (3)  “DIVISION” MEANS THE DIVISION OF REHABILITATION  
23 SERVICES OF THE MARYLAND STATE DEPARTMENT OF EDUCATION.

24               (4)  “QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES”  
25 MEANS:

26                   (I)   STATE–REGULATED CHILD CARE EXPENSES THAT ARE  
27 INCURRED BY A BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYEE TO BE  
28 GAINFULLY EMPLOYED; OR

29                   (II)  TRANSPORTATION EXPENSES THAT ARE INCURRED BY A  
30 BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYEE TO TRAVEL TO AND  
31 FROM WORK.

1           **(5) “QUALIFIED EMPLOYEE” MEANS A QUALIFIED EMPLOYMENT**  
2 **OPPORTUNITY EMPLOYEE OR QUALIFIED EMPLOYEE WITH A DISABILITY.**

3           **(6) (I) “QUALIFIED EMPLOYEE WITH A DISABILITY” MEANS AN**  
4 **INDIVIDUAL WHO:**

5                   **1. MEETS THE DEFINITION OF AN INDIVIDUAL WITH**  
6 **A DISABILITY AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT;**

7                   **2. HAS A DISABILITY THAT PRESENTLY**  
8 **CONSTITUTES AN IMPEDIMENT TO OBTAINING OR MAINTAINING EMPLOYMENT**  
9 **OR TO TRANSITIONING FROM SCHOOL TO WORK;**

10                   **3. IS READY FOR EMPLOYMENT; AND**

11                   **4. HAS BEEN DETERMINED BY THE DIVISION OR THE**  
12 **DEPARTMENT OF LABOR, LICENSING, AND REGULATION, IN CONSULTATION**  
13 **WITH THE DIVISION, AS HAVING MET THE CRITERIA OF A QUALIFIED EMPLOYEE**  
14 **WITH A DISABILITY ESTABLISHED UNDER THIS SECTION.**

15           **(II) “QUALIFIED EMPLOYEE WITH A DISABILITY” INCLUDES:**

16                   **1. AN INDIVIDUAL WHO HAS BEEN DETERMINED BY**  
17 **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, IN**  
18 **CONSULTATION WITH THE UNITED STATES DEPARTMENT OF VETERANS**  
19 **AFFAIRS, AS HAVING BEEN DISCHARGED OR RELEASED FROM ACTIVE DUTY IN**  
20 **THE ARMED FORCES OF THE UNITED STATES FOR A SERVICE-CONNECTED**  
21 **DISABILITY; AND**

22                   **2. ANY OTHER INDIVIDUAL MEETING THE**  
23 **DEFINITION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, WHETHER OR NOT**  
24 **THE INDIVIDUAL RECEIVES SERVICES FROM THE DIVISION.**

25           **(7) (I) “QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE”**  
26 **MEANS AN INDIVIDUAL WHO IS A RESIDENT OF MARYLAND AND WHO FOR ANY 3**  
27 **MONTHS DURING THE 18-MONTH PERIOD BEFORE THE INDIVIDUAL’S**  
28 **EMPLOYMENT WITH A BUSINESS ENTITY WAS A RECIPIENT OF TEMPORARY CASH**  
29 **ASSISTANCE FROM THE STATE UNDER THE AID TO FAMILIES WITH DEPENDENT**  
30 **CHILDREN PROGRAM OR THE FAMILY INVESTMENT PROGRAM AND WHO FOR 6**  
31 **MONTHS BEFORE THE INDIVIDUAL’S EMPLOYMENT WITH A BUSINESS ENTITY**  
32 **WAS A MARYLAND RESIDENT.**

1                   **(II) “QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE”**  
2 **DOES NOT INCLUDE AN INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY OF THE**  
3 **RELATIONSHIPS SPECIFIED IN § 152(A)(1) THROUGH (8) OF THE INTERNAL**  
4 **REVENUE CODE TO, A PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY,**  
5 **MORE THAN 50% OF THE OWNERSHIP OF THE BUSINESS ENTITY.**

6                   **(8) “WAGES” MEANS WAGES, WITHIN THE MEANING OF § 51(C)(1),**  
7 **(2), AND (3) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO § 51(C)(4)**  
8 **OF THE INTERNAL REVENUE CODE THAT ARE PAID BY A BUSINESS ENTITY TO**  
9 **AN EMPLOYEE FOR SERVICES PERFORMED IN A TRADE OR BUSINESS OF THE**  
10 **EMPLOYER.**

11                   **(B) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A**  
12 **BUSINESS ENTITY MAY CLAIM A SUBTRACTION MODIFICATION IN THE AMOUNTS**  
13 **DETERMINED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION FOR THE**  
14 **WAGES AND QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES WITH**  
15 **RESPECT TO A QUALIFIED EMPLOYEE OF THE BUSINESS ENTITY THAT ARE PAID**  
16 **IN THE TAXABLE YEAR FOR WHICH THE BUSINESS ENTITY CLAIMS THE**  
17 **SUBTRACTION MODIFICATION.**

18                   **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
19 **SUBSECTION, FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH**  
20 **QUALIFIED EMPLOYEE, A SUBTRACTION MODIFICATION IS ALLOWED IN AN**  
21 **AMOUNT EQUAL TO:**

22                               **(I) 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO**  
23 **THE QUALIFIED EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND**

24                               **(II) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO**  
25 **THE QUALIFIED EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.**

26                   **(2) IF A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE HAS**  
27 **BEEN A RECIPIENT OF TEMPORARY CASH ASSISTANCE FROM THE STATE UNDER**  
28 **THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM OR THE FAMILY**  
29 **INVESTMENT PROGRAM FOR AT LEAST 18 OF THE LAST 48 MONTHS, WHETHER**  
30 **CONSECUTIVE OR NOT CONSECUTIVE, AND HAS BEEN EMPLOYED FOR A FULL**  
31 **YEAR BY A BUSINESS ENTITY CLAIMING THE SUBTRACTION MODIFICATION, THE**  
32 **SUBTRACTION MODIFICATION ALLOWED UNDER THIS SECTION IS AN AMOUNT**  
33 **EQUAL TO 40% OF UP TO THE FIRST \$10,000 IN WAGES PAID TO THE QUALIFIED**  
34 **EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF**  
35 **EMPLOYMENT.**

36                   **(D) FOR EACH TAXABLE YEAR, FOR CHILD CARE PROVIDED OR PAID**  
37 **FOR BY A BUSINESS ENTITY FOR THE CHILDREN OF A QUALIFIED EMPLOYEE OF**

1 THE BUSINESS ENTITY, OR TRANSPORTATION EXPENSES THAT ARE INCURRED  
2 BY A BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYEE TO TRAVEL TO AND  
3 FROM WORK, A SUBTRACTION MODIFICATION IS ALLOWED IN AN AMOUNT  
4 EQUAL TO:

5 (1) UP TO \$600 OF THE QUALIFIED CHILD CARE OR  
6 TRANSPORTATION EXPENSES INCURRED FOR EACH QUALIFIED EMPLOYEE  
7 DURING THE FIRST YEAR OF EMPLOYMENT; AND

8 (2) UP TO \$500 OF THE QUALIFIED CHILD CARE OR  
9 TRANSPORTATION EXPENSES INCURRED FOR EACH QUALIFIED EMPLOYEE  
10 DURING THE SECOND YEAR OF EMPLOYMENT.

11 (E) (1) A BUSINESS ENTITY MAY NOT CLAIM THE SUBTRACTION  
12 MODIFICATION UNDER THIS SECTION FOR AN EMPLOYEE:

13 (I) WHO IS HIRED TO REPLACE A LAID-OFF EMPLOYEE OR  
14 TO REPLACE AN EMPLOYEE WHO IS ON STRIKE; OR

15 (II) FOR WHOM THE BUSINESS ENTITY SIMULTANEOUSLY  
16 RECEIVES FEDERAL OR STATE EMPLOYMENT TRAINING BENEFITS.

17 (2) A BUSINESS ENTITY MAY NOT CLAIM THE SUBTRACTION  
18 MODIFICATION UNDER THIS SECTION UNTIL IT HAS NOTIFIED THE  
19 APPROPRIATE GOVERNMENT AGENCY THAT THE QUALIFIED EMPLOYEE HAS  
20 BEEN HIRED.

21 (3) A BUSINESS ENTITY MAY CLAIM A SUBTRACTION  
22 MODIFICATION IN THE AMOUNT PROVIDED IN PARAGRAPH (4) OF THIS  
23 SUBSECTION FOR AN EMPLOYEE WHOSE EMPLOYMENT LASTS LESS THAN 1 YEAR  
24 IF THE EMPLOYEE:

25 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE  
26 EMPLOYER;

27 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO DEATH  
28 OR A DISABILITY; OR

29 (III) IS TERMINATED FOR CAUSE.

30 (4) (I) IF A BUSINESS ENTITY IS ENTITLED TO A SUBTRACTION  
31 MODIFICATION UNDER THIS SECTION FOR AN EMPLOYEE WHO IS EMPLOYED  
32 FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE VOLUNTARILY TERMINATES  
33 EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER JOB, THE BUSINESS

1 ENTITY MAY CLAIM A SUBTRACTION MODIFICATION IN AN AMOUNT EQUAL TO  
2 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE EMPLOYEE  
3 DURING THE COURSE OF EMPLOYMENT.

4 (II) IF A BUSINESS ENTITY IS ENTITLED TO A SUBTRACTION  
5 MODIFICATION UNDER THIS SECTION FOR AN EMPLOYEE WHO IS EMPLOYED  
6 FOR LESS THAN 1 YEAR FOR A REASON OTHER THAN THAT DESCRIBED IN  
7 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AMOUNT OF THE SUBTRACTION  
8 MODIFICATION SHALL BE REDUCED BY THE PROPORTION OF A YEAR THAT THE  
9 EMPLOYEE DID NOT WORK.

10 (F) THE COMPTROLLER IN COOPERATION WITH THE DEPARTMENT OF  
11 LABOR, LICENSING, AND REGULATION, THE DEPARTMENT OF HUMAN  
12 RESOURCES, AND THE STATE DEPARTMENT OF EDUCATION SHALL  
13 ADMINISTER THE SUBTRACTION MODIFICATION UNDER THIS SECTION.

14 (G) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION  
15 SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE  
16 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BEFORE JANUARY 15 OF  
17 EACH YEAR ON:

18 (1) THE IMPACT OF THE SUBTRACTION MODIFICATION UNDER  
19 THIS SECTION WITH RESPECT TO EMPLOYMENT OF QUALIFIED EMPLOYEES  
20 WITH DISABILITIES, INCLUDING:

21 (I) MARKETING ACTIVITIES FOR THE SUBTRACTION  
22 MODIFICATION UNDER THIS SECTION WITH RESPECT TO QUALIFIED EMPLOYEES  
23 WITH DISABILITIES;

24 (II) THE NUMBER OF BUSINESS ENTITIES WHO HIRED A  
25 QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE PRECEDING YEAR;

26 (III) THE NUMBER OF QUALIFIED EMPLOYEES WITH  
27 DISABILITIES:

28 1. HIRED IN EACH BUSINESS SECTOR FOR THE  
29 PRECEDING YEAR; AND

30 2. HIRED DURING THE PRECEDING YEAR AND  
31 EMPLOYED FOR LESS THAN 1 YEAR;

32 (IV) A SUMMARY OF THE AVERAGE HOURLY WAGES PAID TO  
33 QUALIFIED EMPLOYEES WITH DISABILITIES FOR THE PRECEDING YEAR;



1                   (V) THE NUMBER AND AMOUNT OF SUBTRACTION  
2 MODIFICATIONS CLAIMED DURING THE PRECEDING YEAR FOR EMPLOYMENT OF  
3 QUALIFIED EMPLOYEES WITH DISABILITIES; AND

4                   (VI) THE NUMBER AND AMOUNT OF SUBTRACTION  
5 MODIFICATIONS CLAIMED FOR CHILD CARE OR TRANSPORTATION EXPENSES  
6 FOR QUALIFIED EMPLOYEES WITH DISABILITIES, INCLUDING A SUMMARY OF  
7 THE TYPES OF TRANSPORTATION EXPENSES INCURRED BY BUSINESS ENTITIES;  
8 AND

9                   (2) THE IMPACT OF THE SUBTRACTION MODIFICATION UNDER  
10 THIS SECTION WITH RESPECT TO EMPLOYMENT OF QUALIFIED EMPLOYMENT  
11 OPPORTUNITY EMPLOYEES, INCLUDING:

12                   (I) MARKETING ACTIVITIES WITH RESPECT TO  
13 EMPLOYMENT OF QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEES;

14                   (II) THE COORDINATION OF INTERAGENCY ACTIVITIES;

15                   (III) THE NUMBER OF BUSINESS ENTITIES WHO HIRED  
16 EMPLOYMENT OPPORTUNITY EMPLOYEES DURING THE PRECEDING YEAR,  
17 INCLUDING A SEPARATE ACCOUNT OF THE NUMBER OF ORGANIZATIONS THAT  
18 ARE EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL  
19 REVENUE CODE;

20                   (IV) THE NUMBER OF QUALIFIED EMPLOYMENT  
21 OPPORTUNITY EMPLOYEES:

22                                 1. HIRED IN EACH BUSINESS SECTOR FOR THE  
23 PRECEDING YEAR; AND

24                                 2. HIRED DURING THE PRECEDING YEAR AND  
25 EMPLOYED FOR LESS THAN 1 YEAR;

26                   (V) A SUMMARY OF THE WAGES PAID TO QUALIFIED  
27 EMPLOYMENT OPPORTUNITY EMPLOYEES FOR THE PRECEDING YEAR;

28                   (VI) THE TOTAL NUMBER AND AMOUNT OF JOB  
29 CERTIFICATIONS ISSUED AND SUBTRACTION MODIFICATIONS CLAIMED DURING  
30 THE PRECEDING YEAR AS WELL AS THE NUMBER AND AMOUNT OF JOB  
31 CERTIFICATIONS ISSUED AND SUBTRACTION MODIFICATIONS CLAIMED DURING  
32 THE PRECEDING YEAR FOR QUALIFIED EMPLOYMENT OPPORTUNITY  
33 EMPLOYEES ELIGIBLE FOR THE SUBTRACTION MODIFICATION GRANTED UNDER  
34 SUBSECTION (C)(2) OF THIS SECTION;

1                   (VII) THE NUMBER AND AMOUNT OF SUBTRACTION  
2 MODIFICATIONS CLAIMED FOR CHILD CARE OR TRANSPORTATION EXPENSES  
3 INCURRED FOR QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEES,  
4 INCLUDING A SUMMARY OF THE TYPES OF TRANSPORTATION EXPENSES  
5 INCURRED BY BUSINESS ENTITIES; AND

6                   (VIII) THE NUMBER OF QUALIFIED EMPLOYMENT  
7 OPPORTUNITY EMPLOYEES EMPLOYED FOR:

8                   1. MORE THAN 1 YEAR BUT LESS THAN 2 YEARS;

9                   2. MORE THAN 2 YEARS BUT LESS THAN 3 YEARS;  
10 AND

11                   3. 3 YEARS OR MORE.

12 10–229.

13           An individual or a corporation may claim a [credit against the income tax]  
14 **SUBTRACTION MODIFICATION** for wages paid to qualified employees as provided  
15 under Title 6, Subtitle 3 of the Economic Development Article.

16 10–230.

17           An individual or a corporation may claim a [credit against the State income tax]  
18 **SUBTRACTION MODIFICATION** for neighborhood and community assistance  
19 contributions as provided under § 6–404 of the Housing and Community Development  
20 Article.

21 10–231.

22           An individual or a corporation may claim a [State tax credit against the income  
23 tax] **SUBTRACTION MODIFICATION** as provided under § 9–230 of the Tax – Property  
24 Article.

25 10–232.

26           [(a)] An individual or corporation may claim a [credit against the income tax]  
27 **SUBTRACTION MODIFICATION** for wages paid to a qualified ex–felon employee as  
28 provided under § 11–704 of the Labor and Employment Article.

29           [(b) (1)] An organization that is exempt from taxation under § 501(c)(3) or  
30 (4) of the Internal Revenue Code may apply the credit under this section:

1 (i) as a credit against income tax due on unrelated business  
2 taxable income as provided under §§ 10–304 and 10–812 of this title; or

3 (ii) as a credit for the payment to the Comptroller of taxes that  
4 the organization:

5 1. is required to withhold from the wages of employees  
6 under § 10–908 of this title; and

7 2. is required to pay to the Comptroller under §  
8 10–906(a) of this title.

9 (2) If the credit allowed under this subsection in any taxable year  
10 exceeds the sum of the State income tax otherwise payable by the organization for that  
11 taxable year and the taxes that the organization has withheld from the wages of  
12 employees and is required to pay to the Comptroller under § 10–906(a) of this title for  
13 the taxable year, the organization may apply the excess as a credit under paragraph  
14 (1)(i) or (ii) of this subsection in succeeding taxable years for the carryforward period  
15 provided in § 11–704 of the Labor and Employment Article.

16 (3) The Comptroller shall adopt regulations to provide procedures for  
17 claiming and applying credits authorized under paragraph (1)(ii) of this subsection.]

18 10–233.

19 (a) An individual may claim a [credit against the State income tax]  
20 **SUBTRACTION MODIFICATION** for a taxable year in the amount specified in  
21 subsection (b) of this section for property tax paid in that taxable year for  
22 owner-occupied, residential real property that is granted a property tax credit under §  
23 9–317(e), § 9–318(d), or § 9–326 of the Tax – Property Article.

24 (b) The [credit] **SUBTRACTION MODIFICATION** shall equal the amount of  
25 the property tax credit granted for property tax paid under § 9–317(e), § 9–318(d), or §  
26 9–326 of the Tax – Property Article.

27 [(c) If the credit allowed under this section in any taxable year exceeds the  
28 State income tax for that taxable year, calculated before application of the credits  
29 under this section and §§ 10–701 and 10–701.1 of this subtitle, but after application of  
30 the other credits allowable under this subtitle, the excess of the credit shall be  
31 refunded.]

32 10–234.

33 (a) In this section, “long-term care insurance” has the meaning stated in §  
34 18–101 of the Insurance Article.

1 (b) (1) Subject to the limitation under paragraph (2) of this subsection, an  
2 employer may claim a [tax credit] **SUBTRACTION MODIFICATION** in an amount  
3 equal to 5% of the costs incurred by the employer during the taxable year to provide  
4 long-term care insurance as part of an employee benefit package.

5 (2) The [credit] **SUBTRACTION MODIFICATION** allowed under this  
6 section may not exceed the lesser of:

7 (i) \$5,000; or

8 (ii) \$100 for each employee in the State covered by long-term  
9 care insurance provided under the employee benefit package.

10 [(c) (1) An individual or corporation may apply the credit under subsection  
11 (b) of this section against the State income tax.

12 (2) An organization that is exempt from taxation under § 501(c)(3) or  
13 (4) of the Internal Revenue Code may apply the credit under this section against State  
14 income tax due on unrelated business taxable income as provided under §§ 10-304 and  
15 10-812 of this title.

16 (d) (1) If the employer is subject to more than one tax against which the  
17 credit allowed under this section may be applied, the same credit may not be applied  
18 more than once against different taxes.

19 (2) If the credit allowed under this subsection in any taxable year  
20 exceeds the total tax otherwise payable by the employer for that taxable year, the  
21 employer may apply the excess as a credit for succeeding taxable years until the  
22 earlier of:

23 (i) the full amount of the excess is used; or

24 (ii) the expiration of the 5th taxable year after the taxable year  
25 in which the costs to provide long-term care insurance as part of an employee benefit  
26 package were incurred.]

27 10-235.

28 An individual or corporation may claim a [credit against the State income tax]  
29 **SUBTRACTION MODIFICATION** for wages paid to each student under an approved  
30 paid work-based learning program as provided under § 21-501 of the Education  
31 Article.

32 10-236.

1 An individual or corporation may claim a [credit against the State income tax]  
2 **SUBTRACTION MODIFICATION** for One Maryland project costs and start-up costs as  
3 provided under Title 6, Subtitle 4 of the Economic Development Article.

4 10-237.

5 [(a)] An individual or corporation may claim a [credit against the State income  
6 tax] **SUBTRACTION MODIFICATION** for the cost of providing commuter benefits to the  
7 business entity's employees as provided under § 2-901 of the Environment Article.

8 [(b)] An organization that is exempt from taxation under § 501(c)(3) or (4) of  
9 the Internal Revenue Code may apply the credit under this section as a credit for the  
10 payment to the Comptroller of taxes that the organization:

11 (1) is required to withhold from the wages of employees under §  
12 10-908 of this title; and

13 (2) is required to pay to the Comptroller under § 10-906(a) of this  
14 title.]

15 10-238.

16 (a) An individual who is a classroom teacher holding a standard professional  
17 certificate or an advanced professional certificate may claim a [credit against the State  
18 income tax] **SUBTRACTION MODIFICATION** for up to \$1,500 of tuition paid by the  
19 individual during the taxable year for graduate level courses required to maintain  
20 certification if the individual:

21 (1) successfully completes the courses with a grade of B or better;

22 (2) is employed by a county board of education;

23 (3) teaches in a public school and receives a satisfactory performance  
24 evaluation for that teaching; and

25 (4) has not been reimbursed by the county for the tuition paid.

26 (b) [(1)] If a county partially reimburses an individual for tuition paid, the  
27 individual may claim a [tax credit] **SUBTRACTION MODIFICATION** allowed under  
28 this section for the balance of the tuition not paid by the county.

29 [(2)] The credit allowed under this section may not exceed the State  
30 income tax for that taxable year, calculated before the application of the credits  
31 allowed under this section and §§ 10-701 and 10-701.1 of this subtitle but after the  
32 application of the other credits allowable under this subtitle.

1           (3) The unused amount of the credit for any taxable year may not be  
2 carried over to any other taxable year.]

3 10-239.

4           (a) In this section, “eligible long-term care premiums” means eligible  
5 long-term care premiums within the meaning of § 213(d)(10) of the Internal Revenue  
6 Code for a long-term care insurance contract covering an individual who is a  
7 Maryland resident.

8           (b) An individual may claim a [credit against the State income tax]  
9 **SUBTRACTION MODIFICATION** in an amount equal to 100% of the eligible long-term  
10 care premiums paid by the individual during the taxable year for long-term care  
11 insurance covering the individual or the individual’s spouse, parent, stepparent, child,  
12 or stepchild.

13           (c) The [credit] **SUBTRACTION MODIFICATION** allowed under this section:

14               (1) may not exceed \$500 for each insured covered by long-term care  
15 insurance for which the individual pays the premiums;

16               (2) may not be claimed by more than one taxpayer with respect to the  
17 same insured individual; and

18               (3) may not be claimed with respect to an insured individual if:

19                       (i) the insured individual was covered by long-term care  
20 insurance at any time before July 1, 2000; or

21                       (ii) the [credit] **SUBTRACTION MODIFICATION** has been  
22 claimed with respect to that insured individual by any taxpayer for any prior taxable  
23 year.

24           [(d) (1) The total amount of the credit allowed under this section for any  
25 taxable year may not exceed the State income tax for that taxable year, calculated  
26 before application of the credits under this section and §§ 10-701 and 10-701.1 of this  
27 subtitle, but after application of the other credits allowable under this subtitle.

28               (2) The unused amount of the credit for any taxable year may not be  
29 carried over to any other taxable year.]

30           [(e) (D) The [credit] **SUBTRACTION MODIFICATION** allowed under this  
31 section does not affect the treatment under this title of any deduction or exclusion  
32 allowed for federal income tax purposes for the eligible long-term care premiums paid  
33 by the individual.

1           **[(f)] (E)**       On or before December 1, 2005 and each December 1 thereafter,  
2 the Comptroller shall report to the Governor and, subject to § 2–1246 of the State  
3 Government Article, to the General Assembly, regarding the **[credit] SUBTRACTION**  
4 **MODIFICATION** allowed under this section, including:

5                   (1)     the number of individuals who have claimed the **[credit]**  
6 **SUBTRACTION MODIFICATION**, the amount allowed as **[credits] SUBTRACTION**  
7 **MODIFICATIONS**, and the additional number of individuals covered by long–term care  
8 insurance as a result of the **[credit] SUBTRACTION MODIFICATION**; and

9                   (2)     the savings under the State’s Medical Assistance Program as a  
10 result of additional individuals being covered by long–term care insurance as a result  
11 of the **[credit] SUBTRACTION MODIFICATION**.

12 10–240.

13           (b)     (1)     Except as provided in paragraphs (2) and (3) of this subsection, an  
14 individual or corporation that receives an initial **[credit] BENEFIT** certificate from the  
15 Administration may claim a **[credit against the State income tax] SUBTRACTION**  
16 **MODIFICATION** for a taxable year in an amount equal to 0.85 cents for each kilowatt  
17 hour of electricity:

18                   (i)     produced by the individual or corporation from qualified  
19 energy resources at a qualified Maryland facility during the 5–year period specified in  
20 the initial **[credit] BENEFIT** certificate; and

21                   (ii)    sold by the individual or corporation to a person other than a  
22 related person, within the meaning of § 45 of the Internal Revenue Code, during the  
23 taxable year.

24                   (2)     If the electricity is produced from a qualified energy resource that  
25 is co–fired at a facility that produces electricity from coal, the **[credit] SUBTRACTION**  
26 **MODIFICATION** is 0.5 cents for each kilowatt hour of electricity produced from the  
27 qualified energy resource instead of 0.85 cents.

28                   (3)     The annual **[tax credit] SUBTRACTION MODIFICATION** under this  
29 subsection may not exceed one–fifth of the maximum amount **[of credit]** stated in the  
30 initial **[credit] BENEFIT** certificate.

31           (c)     (1)     Subject to the provisions of this subsection, on application by a  
32 taxpayer, the Administration shall issue an initial **[credit] BENEFIT** certificate if the  
33 taxpayer has demonstrated that the taxpayer will within the next 12 months produce  
34 electricity from qualified energy resources at a qualified Maryland facility.

35                   (2)     The initial **[credit] BENEFIT** certificate issued under this  
36 subsection shall:

1 (i) state the maximum amount of [credit] **SUBTRACTION**  
2 **MODIFICATION** that may be claimed by the taxpayer for electricity produced over a  
3 5-year period;

4 (ii) state the earliest tax year for which the [credit]  
5 **SUBTRACTION MODIFICATION** may be claimed; and

6 (iii) state the 5-year period during which electricity produced  
7 from qualified energy resources at the qualified Maryland facility qualifies for the  
8 [credit] **SUBTRACTION MODIFICATION**.

9 (3) The maximum amount [of credit] stated in the initial [credit]  
10 **BENEFIT** certificate shall:

11 (i) for an energy producer, be in an amount equal to the lesser  
12 of:

13 1. the product of multiplying 5 times the taxpayer's  
14 estimated annual [tax credit] **SUBTRACTION MODIFICATION**, based on estimated  
15 annual energy production, as certified by the Administration; or

16 2. \$2,500,000.

17 (4) The Administration may not issue initial [credit] **BENEFIT**  
18 certificates for maximum credit amounts in the aggregate totaling more than  
19 \$25,000,000.

20 (5) The Administration shall approve all applications that qualify for  
21 an initial [credit] **BENEFIT** certificate under this subsection on a first-come,  
22 first-served basis.

23 (6) If a taxpayer over a 3-year period does not claim on average at  
24 least 10% of the maximum [credit] **SUBTRACTION MODIFICATION** amount stated in  
25 the initial [credit] **BENEFIT** certificate, the Administration at its discretion may  
26 cancel an amount of the taxpayer's initial [credit] **BENEFIT** certificate equal to the  
27 product of multiplying:

28 (i) the amount of the [credit] **SUBTRACTION MODIFICATION**  
29 on average that was not claimed over the 3-year period; and

30 (ii) the remaining number of tax years that the taxpayer is  
31 eligible to take the [credit] **SUBTRACTION MODIFICATION**.

32 (7) An applicant for an initial [credit] **BENEFIT** certificate or a  
33 taxpayer whose [credits] **BENEFITS** have been canceled under paragraph (6) of this



1 subsection, may appeal a decision by the Administration to the Office of  
2 Administrative Hearings in accordance with Title 10, Subtitle 2 of the State  
3 Government Article.

4 (8) The Administration may not issue an initial [credit] BENEFIT  
5 certificate after December 31, 2015.

6 (9) The Administration may not issue initial [credit] BENEFIT  
7 certificates for [credit] BENEFIT amounts less than \$1,000.

8 [(d) If the credit allowed under this section in any taxable year exceeds the  
9 State income tax otherwise payable by the corporation or individual for that taxable  
10 year, the corporation or the individual may claim a refund in the amount of the  
11 excess.]

12 [(e) (D) (1) On January 1, 2007, and each year thereafter, the  
13 Administration shall provide to the Comptroller a list of all taxpayers in the prior tax  
14 year that have been issued an initial [credit] BENEFIT certificate and shall specify for  
15 each taxpayer the earliest tax year for which the [credit] BENEFIT may be claimed  
16 and the maximum amount of [credit] BENEFIT allowed.

17 (2) (i) On or before October 1, 2007, and each year thereafter, the  
18 Comptroller and the Administration jointly shall submit to the Governor and, subject  
19 to § 2–1246 of the State Government Article, to the General Assembly a written report  
20 regarding:

21 1. the number of certifications and taxpayers claiming  
22 the [credit] SUBTRACTION MODIFICATION under this section;

23 2. the name and physical location of each taxpayer  
24 issued an initial [credit] BENEFIT certificate;

25 3. the maximum [credit] SUBTRACTION  
26 MODIFICATION amount approved for each taxpayer;

27 4. the geographical distribution of the [credits]  
28 SUBTRACTION MODIFICATIONS claimed; and

29 5. any other available information the Administration  
30 determines to be meaningful and appropriate.

31 (ii) The Comptroller shall ensure that the information is  
32 presented and classified in a manner consistent with the confidentiality of tax return  
33 information.

34 10–241.

1           (b) Subject to the limitations of this section, an individual or a corporation  
2 may claim ~~credits~~ **A SUBTRACTION MODIFICATION** against the State income tax in  
3 an amount equal to:

4           (1) 3% of the Maryland qualified research and development expenses,  
5 not exceeding the Maryland base amount for the individual or corporation, paid or  
6 incurred by the individual or corporation during the taxable year; and

7           (2) 10% of the amount by which the Maryland qualified research and  
8 development expenses paid or incurred by the individual or corporation during the  
9 taxable year exceed the Maryland base amount for the individual or corporation.

10           [(c) (1) By September 15 of the calendar year following the end of the  
11 taxable year in which the Maryland qualified research and development expenses  
12 were incurred, an individual or corporation shall submit an application to the  
13 Department for the credits allowed under subsection (b)(1) and (2) of this section.

14           (2) (i) Except as provided under paragraph (4) of this subsection,  
15 the total amount of credits approved by the Department under subsection (b)(1) of this  
16 section may not exceed \$3,000,000 for any calendar year.

17           (ii) Subject to paragraph (4) of this subsection, if the total  
18 amount of credits applied for by all individuals and corporations under subsection  
19 (b)(1) of this section exceeds the maximum specified under subparagraph (i) of this  
20 paragraph, the Department shall approve a credit under subsection (b)(1) of this  
21 section for each applicant in an amount equal to the product of multiplying the credit  
22 applied for by the applicant times a fraction:

23                           1. the numerator of which is the maximum specified  
24 under subparagraph (i) of this paragraph; and

25                           2. the denominator of which is the total of all credits  
26 applied for by all applicants under subsection (b)(1) of this section in the calendar  
27 year.

28           (3) (i) Except as provided in paragraph (4) of this subsection, the  
29 total amount of credits approved by the Department under subsection (b)(2) of this  
30 section may not exceed \$3,000,000 for any calendar year.

31           (ii) Subject to paragraph (4) of this subsection, if the total  
32 amount of credits applied for by all individuals and corporations under subsection  
33 (b)(2) of this section exceeds the maximum specified under subparagraph (i) of this  
34 paragraph, the Department shall approve a credit under subsection (b)(2) of this  
35 section for each applicant in an amount equal to the product of multiplying the credit  
36 applied for by the applicant times a fraction:

1                   1.     the numerator of which is the maximum specified  
2 under subparagraph (i) of this paragraph; and

3                   2.     the denominator of which is the total of all credits  
4 applied for by all applicants under subsection (b)(2) of this section in the calendar  
5 year.

6                   (4)   (i)     For any calendar year, if the maximum specified under  
7 paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all  
8 individuals and corporations under subsection (b)(1) of this section, the maximum  
9 specified under paragraph (3)(i) of this subsection shall be increased for that calendar  
10 year by an amount equal to the amount by which the maximum specified under  
11 paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all  
12 individuals and corporations under subsection (b)(1) of this section.

13                   (ii)    For any calendar year, if the maximum specified under  
14 paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all  
15 individuals and corporations under subsection (b)(2) of this section, the maximum  
16 specified under paragraph (2)(i) of this subsection shall be increased for that calendar  
17 year by an amount equal to the amount by which the maximum specified under  
18 paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all  
19 individuals and corporations under subsection (b)(2) of this section.

20                   (5)    By December 15 of the calendar year following the end of the  
21 taxable year in which the Maryland qualified research and development expenses  
22 were incurred, the Department shall certify to the individual or corporation the  
23 amount of the research and development tax credits approved by the Department for  
24 the individual or corporation under subsection (b)(1) and (2) of this section.

25                   (6)    To claim the approved credits allowed under this section, an  
26 individual or corporation shall:

27                   (i)     file an amended income tax return for the taxable year in  
28 which the Maryland qualified research and development expense was incurred; and

29                   (ii)    attach a copy of the Department's certification of the  
30 approved credit amount to the amended income tax return.]

31                   [(d)   If the credit allowed under this section in any taxable year exceeds the  
32 State income tax for that taxable year, an individual or corporation may apply the  
33 excess as a credit against the State income tax for succeeding taxable years until the  
34 earlier of:

35                   (1)     the full amount of the excess is used; or

36                   (2)     the expiration of the 7th taxable year after the taxable year in  
37 which the Maryland qualified research and development expense was incurred.]

1           [(e) (1) In determining the amount of the credit under this section:

2                           (i) all members of the same controlled group of corporations, as  
3 defined under § 41(f) of the Internal Revenue Code, shall be treated as a single  
4 taxpayer; and

5                           (ii) the credit allowable by this section to each member shall be  
6 its proportionate shares of the qualified research expenses giving rise to the credit.

7           (2) The Comptroller shall adopt regulations providing for:

8                           (i) determination of the amount of the credit under this section  
9 in the case of trades or businesses, whether or not incorporated, that are under  
10 common control;

11                          (ii) pass-through and allocation of the credit in the case of  
12 estates and trusts, partnerships, unincorporated trades or businesses, and S  
13 corporations;

14                          (iii) adjustments in the case of acquisitions and dispositions  
15 described in § 41(f)(3) of the Internal Revenue Code; and

16                          (iv) determination of the credit in the case of short taxable years.

17           (3) The regulations adopted under paragraph (2) of this subsection  
18 shall be based on principles similar to the principles applicable under § 41 of the  
19 Internal Revenue Code and regulations adopted thereunder.]

20           [(f) (C) (1) The Department of Business and Economic Development  
21 and the Comptroller jointly shall adopt regulations to prescribe standards for  
22 determining when research or development is considered conducted in the State for  
23 purposes of determining the [credit] **SUBTRACTION MODIFICATION** under this  
24 section.

25           (2) In adopting regulations under this subsection, the Department and  
26 the Comptroller may consider:

27                           (i) the location where services are performed;

28                           (ii) the residence or business location of the person or persons  
29 performing services;

30                           (iii) the location where supplies used in research and  
31 development are consumed; and

1 (iv) any other factors that the Department determines are  
2 relevant for the determination.

3 [(g) (1) On or before January 10 of each year, the Department shall report  
4 to the Governor and, subject to § 2–1246 of the State Government Article, to the  
5 General Assembly, on the credits approved under this section.

6 (2) The report required under paragraph (1) of this subsection shall  
7 include for each individual or corporation approved to receive a credit under  
8 subsection (b)(1) and (2) of this section in the prior calendar year:

9 (i) the individual’s or corporation’s name and address; and

10 (ii) the amount of the credit approved.

11 (3) The report required under paragraph (1) of this subsection shall  
12 include the name of the individual or corporation and the aggregate amount of credits  
13 approved in all calendar years for each individual or corporation under subsection  
14 (b)(1) and (2) of this section.

15 (4) The report required under paragraph (1) of this subsection shall  
16 summarize for the credits approved under subsection (b)(1) of this section and for the  
17 credits approved under subsection (b)(2) of this section:

18 (i) the total number of applicants for credits under this section  
19 in each calendar year;

20 (ii) the number of applications for which a tax credit was  
21 approved in each calendar year; and

22 (iii) the total credits authorized under this section for all  
23 calendar years under this section.]

24 [(h) (D) If the provisions of § 41 of the Internal Revenue Code governing  
25 the federal research and development tax credit are repealed or terminate, the  
26 provisions of this section continue to operate as if the provisions of § 41 of the Internal  
27 Revenue Code remain in effect, and the Maryland research and development [tax  
28 credit] **SUBTRACTION MODIFICATION** under this section shall continue to be  
29 available.

30 10–242.

31 (a) (7) [“Credit] **“BENEFIT** allowance year” means the later of:

32 (i) the taxable year during which:

1                   1.     the property, construction, completion, or  
2 rehabilitation on which the credit allowed under this section is based is originally  
3 placed in service; or

4                   2.     a fuel cell, wind turbine, or photovoltaic module  
5 constitutes a qualifying alternate energy source and is fully operational; or

6                   (ii)    the earliest taxable year for which the [credit]  
7 **SUBTRACTION MODIFICATION** may be claimed under the initial [credit] **BENEFIT**  
8 certificate issued under subsection (k) of this section.

9           (b)   (1)   An individual or a corporation may claim a [credit against the  
10 State income tax] **SUBTRACTION MODIFICATION** as provided under this section for  
11 green buildings and green building components.

12                   [(2)   If the credit allowed under this section exceeds the State income  
13 tax, any unused credit may be carried forward and applied for succeeding taxable  
14 years until the earlier of:

15                   (i)     the full amount of the credit is used; or

16                   (ii)    the expiration of the 10th year after the taxable year for  
17 which the credit was allowed.]

18                   [(3)] (2)   For each of the [credits] **AMOUNTS ALLOWED** under  
19 subsections (c) through (h) of this section, the [credit] **SUBTRACTION MODIFICATION**  
20 may not be allowed for any taxable year unless:

21                   (i)     the taxpayer has obtained and filed an initial [credit]  
22 **BENEFIT** certificate and an eligibility certificate issued under subsection (k) of this  
23 section;

24                   (ii)    a certificate of occupancy for the building has been issued;  
25 and

26                   (iii)  the property with respect to which the [credit]  
27 **SUBTRACTION MODIFICATION** is claimed is in service during the taxable year.

28                   [(4)] (3)   The total amount allowed in the aggregate for [all credits]  
29 **THE SUBTRACTION MODIFICATION** under this section may not exceed the maximum  
30 set forth in the initial [credit] **BENEFIT** certificate obtained under subsection (k) of  
31 this section.

32                   [(5)] (4)   In determining the amount of the [credits] **SUBTRACTION**  
33 **MODIFICATION** under this section, a cost paid or incurred may not be the basis for  
34 more than one [credit] **SUBTRACTION MODIFICATION**.

1           (c)   (1)   For the taxable year that is the [credit] **BENEFIT** allowance year,  
2 an owner or tenant may claim a [credit] **SUBTRACTION MODIFICATION** in an  
3 amount equal to 8% of the allowable costs paid or incurred by the owner or tenant for  
4 the construction of a green whole building or the rehabilitation of a building that is not  
5 a green whole building to be a green whole building.

6                   (2)   The allowable costs used to determine the [credit] **SUBTRACTION**  
7 **MODIFICATION** amount allowed under this subsection for a green whole building may  
8 not exceed in the aggregate:

9                           (i)   \$120 per square foot for that portion of the building that  
10 comprises the base building; and

11                           (ii)   \$60 per square foot for that portion of the building that  
12 comprises the tenant space.

13           (d)   (1)   For the taxable year that is the [credit] **BENEFIT** allowance year,  
14 an owner may claim a [credit] **SUBTRACTION MODIFICATION** in an amount equal to  
15 6% of the allowable costs paid or incurred by the owner for the construction of a green  
16 base building or the rehabilitation of a building that is not a green base building to be  
17 a green base building.

18                   (2)   The allowable costs used to determine the [credit] **SUBTRACTION**  
19 **MODIFICATION** amount allowed under this subsection for a green base building may  
20 not exceed, in the aggregate, \$120 per square foot.

21           (e)   (1)   For the taxable year that is the [credit] **BENEFIT** allowance year,  
22 an owner or tenant may claim a [credit] **SUBTRACTION MODIFICATION** in an amount  
23 equal to 6% of the allowable costs for tenant improvements paid or incurred by the  
24 owner or tenant in the construction or completion of green tenant space or the  
25 rehabilitation of tenant space that is not green tenant space to be green tenant space.

26                   (2)   (i)   The allowable costs used to determine the [credit]  
27 **SUBTRACTION MODIFICATION** amount allowed under this subsection for green  
28 tenant space may not exceed, in the aggregate, \$60 per square foot.

29                           (ii)   If an owner and tenant both incur allowable costs for tenant  
30 improvements under this subsection and the costs exceed \$60 per square foot in the  
31 aggregate, the owner has priority as to costs constituting the basis for the green  
32 tenant space [credit] **SUBTRACTION MODIFICATION** under this subsection.

33                   (3)   The [credit] **SUBTRACTION MODIFICATION** under this subsection  
34 for green tenant space may not be claimed by an owner of a building that occupies  
35 fewer than 10,000 square feet of the building.

1           (4)    The [credit] **SUBTRACTION MODIFICATION** under this subsection  
2 for green tenant space may not be claimed by a tenant that occupies fewer than 5,000  
3 square feet.

4           (f)    (1)    For the taxable year that is the [credit] **BENEFIT** allowance year,  
5 an owner or tenant may claim a [credit] **SUBTRACTION MODIFICATION** in the  
6 amount determined under this subsection for the installation of a fuel cell that is a  
7 qualifying alternate energy source and is installed to serve a green whole building,  
8 green base building, or green tenant space.

9           (2)    The amount of the [credit] **SUBTRACTION MODIFICATION**  
10 allowed under this subsection is 30% of the sum of the capitalized costs paid or  
11 incurred by an owner or tenant with respect to each fuel cell installed, including the  
12 cost of the foundation or platform and the labor costs associated with installation.

13           (3)    The costs used to determine the [credit] **SUBTRACTION**  
14 **MODIFICATION** amount allowed under this subsection for installation of a fuel cell:

15                   (i)    may not exceed \$1,000 per kilowatt of installed DC rated  
16 capacity of the fuel cell; and

17                   (ii)   shall be reduced by the amount of any federal, State, or local  
18 grant:

19                           1.    received by the taxpayer and used for the purchase or  
20 installation of the fuel cell; and

21                           2.    not included in the federal gross income of the  
22 taxpayer.

23           (g)    (1)    For the taxable year that is the [credit] **BENEFIT** allowance year,  
24 an owner or tenant may claim a [credit] **SUBTRACTION MODIFICATION** in the  
25 amount determined under this subsection for the installation of photovoltaic modules  
26 that constitute a qualifying alternate energy source and are installed to serve a green  
27 whole building, green base building, or green tenant space.

28           (2)    The amount of the [credit] **SUBTRACTION MODIFICATION**  
29 allowed under this subsection is:

30                   (i)    20% of the incremental cost paid or incurred by an owner or  
31 tenant for building-integrated photovoltaic modules; and

32                   (ii)   25% of the cost of nonbuilding-integrated photovoltaic  
33 modules, including the cost of the foundation or platform and the labor costs  
34 associated with installation.



1           (3) The costs used to determine the [credit] **SUBTRACTION**  
2 **MODIFICATION** amount allowed under this subsection for installation of photovoltaic  
3 modules:

4                   (i) may not exceed the product obtained by multiplying \$3  
5 times the number of watts included in the DC rated capacity of the photovoltaic  
6 modules; and

7                   (ii) shall be reduced by the amount of any federal, State, or local  
8 grant:

9                               1. received by the taxpayer and used for the purchase or  
10 installation of the photovoltaic equipment; and

11                              2. not included in the federal gross income of the  
12 taxpayer.

13                   [(4) A credit may not be claimed under this subsection for the  
14 installation of photovoltaic modules if the credit under § 10-719 of this subtitle is  
15 claimed with respect to the photovoltaic modules.]

16           (h) (1) For the taxable year that is the [credit] **BENEFIT** allowance year,  
17 an owner or tenant may claim a [credit] **SUBTRACTION MODIFICATION** in the  
18 amount determined under paragraph (2) of this subsection for the installation of a  
19 wind turbine that is a qualifying alternate energy source and is installed to serve a  
20 green whole building, green base building, or green tenant space.

21                   (2) The amount of the [credit] **SUBTRACTION MODIFICATION**  
22 allowed under this subsection is 25% of the sum of the capitalized costs paid or  
23 incurred by an owner or tenant with respect to each wind turbine installed, including  
24 the cost of the foundation or platform and the labor costs associated with installation.

25           (i) (1) By regulation, the Administration shall adopt standards for a  
26 building to qualify as a green base building eligible for the tax [credits] **BENEFITS**  
27 under this section that are consistent with the criteria for green base buildings set  
28 forth by the United States Green Building Council or other similar criteria.

29                   (2) The regulations adopted under this subsection shall provide that  
30 the energy use shall be no more than 65% for new construction of a base building, or  
31 75% in the case of rehabilitation of a base building, of the energy use attributable to a  
32 reference building which meets the requirements of applicable energy efficiency  
33 standards.

34           (j) (1) By regulation, the Administration shall adopt standards for tenant  
35 space to qualify as green tenant space eligible for the tax [credits] **BENEFITS** under  
36 this section that are consistent with the criteria for green tenant space set forth by the  
37 United States Green Building Council or other similar criteria.

1           (2)    The regulations adopted under this subsection shall provide that  
 2 the energy use shall be no more than 65% for new construction, or 75% in the case of  
 3 rehabilitation, of the energy use attributable to a reference building which meets the  
 4 requirements of applicable energy efficiency standards.

5           (k)    (1)    (i)    On application by a taxpayer, the Administration shall issue  
 6 an initial [credit] **BENEFIT** certificate if the taxpayer has made a showing that the  
 7 taxpayer is likely within a reasonable time to place in service property for which a  
 8 [credit] **BENEFIT** under this section would be allowed.

9                           (ii)    The initial [credit] **BENEFIT** certificate issued under this  
 10 paragraph:

11                                   1.    shall state the earliest taxable year for which the  
 12 [credit] **SUBTRACTION MODIFICATION** may be claimed and an expiration date; and

13                                   2.    shall apply only to property placed in service on or  
 14 before the expiration date.

15                           (iii)    To avoid unwarranted hardship, the Administration at its  
 16 discretion may extend the expiration date stated under an initial [credit] **BENEFIT**  
 17 certificate.

18                           (iv)    The initial [credit] **BENEFIT** certificate shall state the  
 19 maximum amount of [credit] **SUBTRACTION MODIFICATION** allowable in the  
 20 aggregate for all [credits] **SUBTRACTION MODIFICATIONS** allowed under this  
 21 section.

22                           (v)    The Administration may not issue initial [credit] **BENEFIT**  
 23 certificates, in the aggregate, for more than \$25,000,000 worth of credits.

24                           (vi)    Except as provided in subparagraph (vii) of this paragraph,  
 25 initial [credit] **BENEFIT** certificates shall be limited in their applicability, as follows:

26           [Credits] <b>SUBTRACTION</b>	With respect to taxable years
27 <b>MODIFICATIONS</b> in the	beginning:
28           aggregate	
29           may not be allowed	
30           for more than:	
31           \$1 million	2003
32           \$2 million	2004
33           \$3 million	2005
34           \$4 million	2006
35           \$5 million	2007
36           \$4 million	2008
37           \$3 million	2009

1           \$2 million                           2010  
2           \$1 million                           2011

3                           (vii) As of the end of a calendar year, if certificates for [credit]  
4 **SUBTRACTION MODIFICATION** amounts totaling less than the amount permitted  
5 with respect to taxable years beginning in that calendar year have been issued, the  
6 maximum amount that may be allowed for taxable years beginning in the subsequent  
7 calendar year shall be increased by the amount of the preceding year's shortfall.

8                           (viii) The Administration may not issue an initial [credit]  
9 **BENEFIT** certificate after December 31, 2011.

10                           (ix) On January 1, 2004, and each year thereafter, the  
11 Administration shall provide to the Comptroller a list of all taxpayers in the prior  
12 taxable year that have been issued an initial [credit] **BENEFIT** certificate and shall  
13 specify for each taxpayer the earliest taxable year for which the [credit]  
14 **SUBTRACTION MODIFICATION** may be claimed and the maximum amount of the  
15 [credit] **SUBTRACTION MODIFICATION** allowable in the aggregate for all [credits]  
16 **SUBTRACTION MODIFICATIONS** allowed under this section.

17                           (2) (i) For each taxable year for which a taxpayer claims a [credit]  
18 **SUBTRACTION MODIFICATION** under this section with respect to a green whole  
19 building, green base building, green tenant space, fuel cell, photovoltaic module, or  
20 wind turbine, the taxpayer shall obtain an eligibility certificate from an architect or  
21 professional engineer licensed to practice in this State.

22                           (ii) An eligibility certificate issued under this paragraph shall  
23 consist of a certification, under the seal of the architect or engineer, that the property  
24 that is the basis for the [credit] **SUBTRACTION MODIFICATION** that is claimed is in  
25 service and that:

26   1. the building, base building, or tenant space with  
27 respect to which the [credit] **BENEFIT** is claimed is a green whole building, green base  
28 building, or green tenant space; and

29   2. any fuel cell, photovoltaic module, or wind turbine  
30 with respect to which the [credit] **BENEFIT** is claimed constitutes a qualifying  
31 alternate energy source and is fully operational.

32                           (iii) The certification under subparagraph (ii) of this paragraph:

33   1. shall be made in accordance with the regulations  
34 adopted by the Administration under this section specifying the standards and  
35 guidelines for each [credit] **BENEFIT** under this section; and



1           (6) The Comptroller shall ensure that the information is presented  
2 and classified in a manner consistent with the confidentiality of tax return  
3 information.

4 10-243.

5           (a) (1) An individual may claim a [credit against the State income tax]  
6 **SUBTRACTION MODIFICATION** as provided in this section for an easement conveyed  
7 to the Maryland Environmental Trust or the Maryland Agricultural Land  
8 Preservation Foundation for the purpose of preserving open space, natural resources,  
9 agriculture, forest land, watersheds, significant ecosystems, viewsheds, or historic  
10 properties, if:

11                       (i) the easement is perpetual; and

12                       (ii) the easement is accepted and approved by the Board of  
13 Public Works.

14           (2) Subject to subsection (c)(2) of this section, the [credit]  
15 **SUBTRACTION MODIFICATION** under this section shall be allowed for the taxable  
16 year in which the donation is approved by the Board of Public Works.

17           (b) (1) Except as otherwise provided in this section, the amount of the  
18 [credit] **SUBTRACTION MODIFICATION** allowed under this section is the amount by  
19 which the fair market value of the property before the conveyance of the easement  
20 exceeds the fair market value of the property after the conveyance of the easement.

21           (2) The fair market value of the property before and after the  
22 conveyance of the easement shall be substantiated by an appraisal prepared by a  
23 certified real estate appraiser, as defined under § 16-101 of the Business Occupations  
24 and Professions Article.

25           (3) The amount of the [credit] **SUBTRACTION MODIFICATION** shall  
26 be reduced by the amount of any payment received for the easement.

27           (c) (1) For any taxable year, the [credit] **SUBTRACTION MODIFICATION**  
28 allowed under this section may not exceed [the lesser of:

29                       (i) the State income tax for that taxable year; or

30                       (ii)] \$5,000.

31           (2) If the [credit] **SUBTRACTION MODIFICATION** otherwise allowable  
32 under subsection (b) of this section exceeds the limit under paragraph (1) of this  
33 subsection, an individual may apply the excess as a [credit] **SUBTRACTION**  
34 **MODIFICATION** against the State income tax for succeeding taxable years until the  
35 earlier of:

1 (i) the full amount of the excess is used; or

2 (ii) the expiration of the 15th taxable year after the taxable year  
3 in which the donation was approved by the Board of Public Works.

4 (3) For each taxable year, the amount carried forward to the taxable  
5 year under paragraph (2) of this subsection may not exceed the limit under paragraph  
6 (1) of this subsection.

7 (d) The **[credit] SUBTRACTION MODIFICATION** under this section may not  
8 be claimed for a required dedication of open space for the purpose of fulfilling density  
9 requirements to obtain a subdivision or building permit.

10 10-244.

11 (a) In this section, “aquaculture oyster float” means a device that is:

12 (1) purchased new;

13 (2) specifically designed for the purpose of growing oysters at or under  
14 an individual homeowner’s pier; and

15 (3) constructed to be fully buoyant and facilitate the growth of oysters  
16 for the width of the pier.

17 (b) Subject to the limitations of this section, an individual may claim a  
18 **[credit against the State income tax] SUBTRACTION MODIFICATION** in an amount  
19 equal to 100% of the purchase price of aquaculture oyster floats purchased during the  
20 taxable year.

21 (c) **[(1)]** For any taxable year, the **[credit] SUBTRACTION MODIFICATION**  
22 allowed under this section may not exceed **[the lesser of:**

23 (i) **\$500**; or

24 (ii) the State income tax imposed for the taxable year calculated  
25 before the application of the credits allowed under this section and under §§ 10-701  
26 and 10-701.1 of this subtitle but after the application of any other credit allowed  
27 under this subtitle].

28 **[(2)]** The unused amount of the credit may not be carried over to any  
29 other taxable year.]

30 10-245.

1 (b) Subject to the limitations of this section, an individual or corporation may  
2 claim a [credit against the State income tax] **SUBTRACTION MODIFICATION** in an  
3 amount equal to 10% of the qualified research and development expenses paid or  
4 incurred by the individual or corporation during the taxable year.

5 [(c) (1) By September 15 of the calendar year following the end of the  
6 taxable year in which the qualified research and development expenses were paid or  
7 incurred, an individual or corporation shall submit an application to the Department  
8 for the credit allowed under this section.

9 (2) (i) The total amount of credits approved by the Department  
10 under this section may not exceed \$250,000 for any calendar year.

11 (ii) If the total amount of credits applied for by all individuals  
12 and corporations under this section exceeds the maximum specified under  
13 subparagraph (i) of this paragraph, the Department shall approve a credit under this  
14 section for each applicant in an amount equal to the product of multiplying the credit  
15 applied for by the applicant times a fraction:

16 1. the numerator of which is the maximum specified  
17 under subparagraph (i) of this paragraph; and

18 2. the denominator of which is the total of all credits  
19 applied for by all applicants in the calendar year.

20 (3) By December 15 of the calendar year following the end of the  
21 taxable year in which the qualified research and development expenses were paid or  
22 incurred, the Department shall certify to the individual or corporation the amount of  
23 the research and development tax credit approved by the Department for the  
24 individual or corporation under this section.

25 (4) To claim the approved credit allowed under this section, an  
26 individual or corporation shall:

27 (i) file an amended income tax return for the taxable year in  
28 which the qualified research and development expenses were paid or incurred; and

29 (ii) attach a copy of the Department's certification of the  
30 approved credit amount to the amended income tax return.]

31 [(d) If the credit allowed under this section in any taxable year exceeds the  
32 State income tax for that taxable year, an individual or corporation may apply the  
33 excess as a credit against the State income tax for succeeding taxable years until the  
34 earlier of:

35 (1) the full amount of the excess is used; or

1           (2)    the expiration of the 15th taxable year after the taxable year in  
2 which the qualified research and development expenses were paid or incurred.]

3           [(e)   (1)    In determining the amount of the credit under this section:

4                   (i)    all members of the same controlled group of corporations, as  
5 defined under § 41(f) of the Internal Revenue Code, shall be treated as a single  
6 taxpayer; and

7                   (ii)   the credit allowable by this section to each member shall be  
8 its proportionate share of the qualified research and development expenses giving rise  
9 to the credit.

10           (2)    The Comptroller shall adopt regulations providing for:

11                   (i)    determination of the amount of the credit under this section  
12 in the case of trades or businesses, whether or not incorporated, that are under  
13 common control;

14                   (ii)   pass-through and allocation of the credit in the case of  
15 estates and trusts, partnerships, unincorporated trades or businesses, and S  
16 corporations;

17                   (iii)   adjustments in the case of acquisitions and dispositions  
18 described in § 41(f)(3) of the Internal Revenue Code; and

19                   (iv)   determination of the credit in the case of short taxable  
20 years.]

21           [(f) ] (C)   (1)    The Department and the Comptroller jointly shall adopt  
22 regulations to prescribe standards for determining when research or development is  
23 considered conducted in the State for purposes of determining the [credit]  
24 **SUBTRACTION MODIFICATION** under this section.

25           (2)    In adopting regulations under this subsection, the Department and  
26 the Comptroller may consider:

27                   (i)    the location where services are performed;

28                   (ii)   the residence or business location of the person or persons  
29 performing services;

30                   (iii)   the location where supplies used in research and  
31 development are consumed; and

32                   (iv)   any other factors that the Department determines are  
33 relevant for the determination.



1           **[(g) (D)]** The **[credit] SUBTRACTION MODIFICATION** under this section  
2 does not apply to any qualified research and development expenses paid or incurred  
3 after December 31, 2016.

4 10–246.

5           (a) (1) In this section the following words have the meanings indicated.

6                   (2) “Administration” means the Maryland Energy Administration.

7                   (3) “Bio–heating oil” means heating oil with a blend of at least 5%  
8 biodiesel.

9           (b) An individual or corporation that receives an initial **[credit] BENEFIT**  
10 certificate under subsection (d) of this section from the Administration may claim a  
11 **[credit against the State income tax] SUBTRACTION MODIFICATION** for a taxable  
12 year in an amount equal to 3 cents for each gallon of bio–heating oil purchased for  
13 space or water heating.

14           (c) **[(1)]** For any taxable year, the **[credit] SUBTRACTION MODIFICATION**  
15 allowed under this section may not exceed **[the lesser of:**

16                           (i) \$500~~]; or~~

17                           (ii) the State income tax for that taxable year].

18                   **[(2)]** The unused amount of the credit for any taxable year may not be  
19 carried over to any other taxable year.]

20           (d) (1) On application by a taxpayer, the Maryland Energy  
21 Administration shall issue an initial **[credit] BENEFIT** certificate for the number of  
22 gallons of bio–heating oil purchased by the taxpayer for space or water heating.

23                   (2) The initial **[credit] BENEFIT** certificate issued under this  
24 subsection shall state the maximum amount of **[credit] SUBTRACTION**  
25 **MODIFICATION** that may be claimed by the taxpayer.

26                   (3) On January 1, 2009, and each year thereafter, the Administration  
27 shall provide to the Comptroller a list of all taxpayers in the prior tax year that have  
28 been issued an initial **[credit] BENEFIT** certificate and shall specify for each taxpayer  
29 the maximum amount of **[credit] SUBTRACTION MODIFICATION** allowed.

30                   (4) The Maryland Energy Administration shall adopt regulations to  
31 administer the initial **[credit] BENEFIT** certificate required under this subsection.

1 10-306.

2 (b) The addition under subsection (a) of this section includes the additions  
3 required for an individual under:

4 (1) [§ 10-205(b) of this title (Enterprise zone wage credit, employment  
5 opportunity credit, disability credit, and qualified ex-felon employee credit);

6 (2)] § 10-205(c) of this title (Reforestation and timber stand  
7 modification);

8 [(3)] (2) § 10-205(e) of this title (Net operating loss modification);

9 **AND**

10 [(4)] (3) § 10-205(g) of this title (Unlicensed child care facility  
11 operating expenses)]; and

12 (5) § 10-205(i) of this title (Maryland research and development tax  
13 credit)].

14 10-308.

15 **(A-1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**  
16 **INCLUDES THE SUBTRACTIONS ALLOWED UNDER SUBTITLE 2, PART V OF THIS**  
17 **TITLE.**

18 10-809.

19 If an individual is not required to file an income tax return under § 10-805, §  
20 10-806 or § 10-813 of this subtitle, the individual:

21 (1) is not liable for income tax; and

22 (2) may file an income tax return to claim a refund of the income tax  
23 withheld or estimated income tax paid or a refund under § 10-704[, § 10-707, or §  
24 10-714] of this title.

25 10-812.

26 [(a)] A corporation exempt from income tax under § 10-104 of this title shall  
27 file an income tax return if the corporation:

28 (1) has unrelated business taxable income, as defined under § 512 of  
29 the Internal Revenue Code;



- 1                   (ii)    21% in the 3rd and 4th taxable years;
- 2                   (iii)  14% in the 5th and 6th taxable years; and
- 3                   (iv)   0% for each taxable year thereafter.

4           (d)    (5)   On receipt of notification under subsection (b)(7) of this section  
5 that a business entity has been certified for an enhanced property tax credit under  
6 this subsection, the Department shall compute and certify to the Comptroller [or, in  
7 the case of the insurance premiums tax, the Maryland Insurance Commissioner] the  
8 amount of the [State tax credit] **SUBTRACTION MODIFICATION** authorized under  
9 this subsection that may be claimed by the business entity or any of its affiliates  
10 [against] **FOR PURPOSES OF** the individual or corporate income tax[, insurance  
11 premiums tax, or financial institution franchise tax that would otherwise be due] to  
12 equal 31.5% of the amount of property tax imposed on the increase in assessment of  
13 the real and personal property described in paragraph (4)(ii) of this subsection for each  
14 of the first 12 taxable years for which the credit is allowed.

15           [(e)   The same State tax credit cannot be applied more than once against  
16 different taxes by the same taxpayer.]

17           [(f)   If the State tax credit allowed under this section in any taxable year  
18 exceeds the total tax otherwise payable by the business entity for that taxable year, a  
19 business entity or its affiliates may apply the excess as a credit for succeeding taxable  
20 years until the earlier of:

21                   (1)    the full amount of the excess is used; or

22                   (2)    the expiration of the 5th taxable year after the taxable year in  
23 which the State tax credit is claimed.]

24           [(g)   The Maryland Insurance Commissioner shall adopt regulations to  
25 provide for the computation, carryover, and recapture of the State tax credit under §  
26 6–116 of the Insurance Article.]

27           [(h)   The Department shall adopt regulations to provide for the computation,  
28 carryover, and recapture of the State tax credit under § 8–217 of the Tax – General  
29 Article.]

30           [(i)] **(E)**    The Comptroller shall adopt regulations to provide for the  
31 computation[, carryover,] and recapture of the [State tax credit under § 10–704.8 of  
32 the Tax – General Article] **SUBTRACTION MODIFICATION**.

33           [(j)] **(F)**    The lessor of real property eligible for property tax credits under  
34 this section shall reduce by the amount of the property tax credits computed under

1 this section the amount of taxes for which the eligible business entity is contractually  
2 liable under the lease agreement.

3 **[(k)] (G)** The governing body of the county or municipal corporation shall  
4 provide, by law, for:

5 (1) the specific requirements for eligibility for a tax credit authorized  
6 under this section;

7 (2) any additional limitations on eligibility for the credit;

8 (3) the information to be supplied by the business entity to a county or  
9 municipal corporation and the Comptroller to verify that the business entity is not  
10 subject to subsection **[(l)] (H)** of this section; and

11 (4) any other provision appropriate to implement the credit.

12 **[(l)] (H)** All credits **AND SUBTRACTION MODIFICATIONS** claimed under  
13 this section for a taxable year shall be recaptured if, during the 3 taxable years  
14 succeeding the taxable year in which a **PROPERTY TAX** credit was claimed:

15 (1) the employment level or square footage of a business entity at the  
16 premises falls below the applicable thresholds required to qualify for the property tax  
17 credit under subsection (c) of this section; or

18 (2) for the enhanced property tax credit, the employment level or  
19 square footage of a business entity, together with its affiliates, at the premises falls  
20 below the applicable thresholds required to qualify for the enhanced property tax  
21 credit under subsection (d) of this section.

22 **[(m)] (I)** On October 1 of each year, each county and municipal corporation  
23 that has granted tax credits under this section shall report to the Department, the  
24 Department of Business and Economic Development, and the Comptroller:

25 (1) the amount of each credit granted for that year; and

26 (2) whether the business entity is in compliance with the  
27 requirements for the tax credit.

28 **[(n)] (J)** (1) After a business entity has complied with all the  
29 requirements provided in this section and in any applicable local law for a particular  
30 tax credit, the business entity shall be entitled to claim the credits **AND**  
31 **SUBTRACTION MODIFICATIONS** for the term provided in this section.

32 (2) No abrogation of this law or law hereinafter enacted that  
33 eliminates or reduces the tax credits **OR SUBTRACTION MODIFICATIONS** available

1 under this section shall apply to any business entity or affiliate of a business entity  
2 that qualified for the tax credits before the effective date of such law or abrogation.

3 SECTION 6. AND BE IT FURTHER ENACTED, That:

4 (a) Except as otherwise provided in this section, this Act shall be applicable  
5 to all taxable years beginning after December 31, 2010.

6 (b) If a taxpayer's taxable year for income tax purposes is not the calendar  
7 year, for any tax credit that is converted to a subtraction modification under this Act,  
8 the amount of any credit allowable for the taxable year that ends in calendar year  
9 2011 shall be limited to amounts based on wages or other expenses paid or incurred on  
10 or before June 30, 2011.

11 (c) For any tax credit that is converted to a subtraction modification under  
12 this Act, to the extent provided and subject to the limitations under the former law:

13 (1) Any excess credits earned for a taxable year beginning before  
14 January 1, 2011, may be carried forward and applied as a credit for taxable years  
15 beginning after December 31, 2010; and

16 (2) Any credits allowed under the former law are subject to recapture  
17 for taxable years beginning after December 31, 2010.

18 (d) Notwithstanding the provisions of this Act, for taxable years beginning  
19 after December 31, 2011, a person may continue to claim tax credits authorized under  
20 §§ 6-114, 6-116, and 6-119 of the Insurance Article, §§ 10-704.4, 10-704.8, and  
21 10-714 of the Tax – General Article, Title 6, Subtitle 3 or Subtitle 4 of the Economic  
22 Development Article, and § 9-230 of the Tax – Property Article as in effect prior to the  
23 effective date of this Act if, on or before June 30, 2011:

24 (1) The Secretary of Business and Economic Development certified the  
25 person as a qualified business entity under the provisions of Title 6, Subtitle 3 or  
26 Subtitle 4 of the Economic Development Article as in effect prior to the effective date  
27 of this Act; or

28 (2) Under § 9-230 of the Tax – Property Article as in effect prior to the  
29 effective date of this Act, a county or municipal corporation certified to the  
30 Department of Business and Economic Development that the person had met the  
31 requirements for the tax credit authorized under that section and the Department  
32 computed and certified to the Comptroller or the Maryland Insurance Commissioner  
33 the amount of the State tax credit that may be claimed by the person.

34 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 July 1, 2011.