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**By: The President (Administration) and Senators Bromwell, Currie, Dorman, Hafer, Hogan, Kasemeyer, Lawlah, McFadden, Middleton, Munson, Roesser, Ruben, and Van Hollen**

Introduced and read first time: January 22, 1996

Rule 32(d) suspended

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Tax Credits - Creation of New Jobs and Employment of Individuals with Disabilities**

3 FOR the purpose of authorizing the Secretary of Business and Economic Development to  
4 approve certain credits against the State income tax, financial institution franchise  
5 tax, and public service company franchise tax to certain business entities that  
6 expand in or locate in the State and create a certain number of new full-time jobs  
7 at a certain wage level within a certain period; allowing an additional credit for  
8 certain jobs created in certain areas; defining certain terms; providing for the  
9 conditions to receive and calculation and use of the credit; limiting the total credits  
10 the Secretary may approve in any fiscal year; requiring certain notice to the  
11 Legislative Policy Committee prior to the approval of any credit by the Secretary;  
12 requiring the recapture of the credit under certain circumstances; allowing a credit  
13 against the State income tax, financial institution franchise tax, and public service  
14 company franchise tax for certain wages paid to certain employees with disabilities;  
15 providing for the calculation and use of the credit; requiring certain addition  
16 modifications if the credit is claimed; requiring a certain certification prior to  
17 claiming the credit; prohibiting an employer from claiming the credit under certain  
18 circumstances; providing for the administration of the tax credits; requiring certain  
19 reports; providing for the effective date and application of this Act; and generally  
20 relating to tax credits for the creation of new jobs and employment of individuals  
21 with disabilities.

22 BY adding to

23 Article 83A - Department of Business and Economic Development  
24 Section 5-1101 and 5-1102, to be under the new subtitle "Subtitle 11. Job Creation  
25 Tax Credits"  
26 Annotated Code of Maryland  
27 (1995 Replacement Volume)

28 BY adding to

29 Article - Tax - General  
30 Section 8-214, 8-411, and 10-704.4  
31 Annotated Code of Maryland

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1 (1988 Volume and 1995 Supplement)

2 BY adding to

3 Article - Education

4 Section 21-307

5 Annotated Code of Maryland

6 (1992 Replacement Volume and 1995 Supplement)

7 BY adding to

8 Article - Tax - General

9 Section 8-215, 8-412, and 10-704.5

10 Annotated Code of Maryland

11 (1988 Volume and 1995 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - Tax - General

14 Section 10-205(b) and 10-306(b)(1)

15 Annotated Code of Maryland

16 (1988 Volume and 1995 Supplement)

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

19 **Article 83A - Department of Business and Economic Development**

20 SUBTITLE 11. JOB CREATION TAX CREDITS.

21 5-1101.

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

24 (B) "CREDIT YEAR" MEANS THE TAXABLE YEAR IN WHICH A QUALIFIED  
25 BUSINESS ENTITY CLAIMS THE CREDIT DESCRIBED IN THIS SECTION.

26 (C) "FULL-TIME POSITION" MEANS A POSITION REQUIRING AT LEAST 840  
27 HOURS OF AN EMPLOYEE'S TIME DURING AT LEAST 24 WEEKS IN A 6-MONTH  
28 PERIOD.

29 (D) "QUALIFIED BUSINESS ENTITY" MEANS A PERSON CONDUCTING OR  
30 OPERATING A TRADE OR BUSINESS IN MARYLAND WHO DURING ANY 24-MONTH  
31 PERIOD HIRES AT LEAST 50 QUALIFIED EMPLOYEES.

32 (E) (1) "QUALIFIED EMPLOYEE" MEANS AN EMPLOYEE WHO IS NEWLY  
33 HIRED INTO A POSITION THAT:

34 (I) IS FULL-TIME AND OF INDEFINITE DURATION;

35 (II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

36 (III) IS LOCATED IN MARYLAND; AND

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1 (IV) IS NEWLY CREATED, AS A RESULT OF THE ESTABLISHMENT OR  
2 EXPANSION OF A BUSINESS FACILITY IN THE STATE.

3 (2) "QUALIFIED EMPLOYEE" DOES NOT INCLUDE AN EMPLOYEE WHO  
4 FILLS A POSITION:

5 (I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED  
6 FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY LOCATED IN  
7 MARYLAND; OR

8 (II) FOR A PERIOD OF LESS THAN 6 MONTHS.

9 (F) "REVITALIZATION AREA" MEANS A GEOGRAPHICALLY DEFINED AREA OF  
10 A LOCAL JURISDICTION WHICH IS DESIGNATED IN ACCORDANCE WITH ARTICLE 83B,  
11 § 2-1303(B) OF THE CODE OR WHICH IS DETERMINED TO BE ELIGIBLE FOR  
12 ENTERPRISE DESIGNATION IN ACCORDANCE WITH ARTICLE 83A, § 5-403 OF THE  
13 CODE.

14 5-1102.

15 (A) (1) THE SECRETARY MAY APPROVE A TAX CREDIT FOR A QUALIFIED  
16 BUSINESS ENTITY THAT EQUALS 50% OF THE ESTIMATED NEW REVENUE TO THE  
17 STATE FROM THE STATE INCOME TAX PAYABLE BY THE NEWLY HIRED QUALIFIED  
18 EMPLOYEES DURING A TAXABLE YEAR.

19 (2) IN THE CASE OF A BUSINESS ENTITY WHOSE NEWLY HIRED  
20 QUALIFIED EMPLOYEES ARE WORKING IN A FACILITY LOCATED IN A  
21 REVITALIZATION AREA, THE SECRETARY MAY APPROVE A TAX CREDIT THAT  
22 EQUALS 100% OF THE ESTIMATED NEW REVENUE TO THE STATE DERIVED FROM  
23 THE STATE INCOME TAX PAYABLE BY THE NEWLY HIRED QUALIFIED EMPLOYEES.

24 (3) THE SECRETARY MAY APPROVE THE CREDIT SPECIFIED IN THIS  
25 SUBSECTION AS PART OF AN AGREEMENT THAT THE BUSINESS ENTITY WILL HIRE  
26 AT LEAST 50 QUALIFIED EMPLOYEES IN THE IMMEDIATE FUTURE.

27 (4) THE AGGREGATE TOTAL OF THE CREDITS THAT THE SECRETARY  
28 MAY APPROVE FOR ALL QUALIFIED BUSINESS ENTITIES UNDER THIS SECTION MAY  
29 NOT EXCEED \$10,000,000 IN ANY FISCAL YEAR.

30 (B) (1) THE SECRETARY SHALL APPROVE CREDITS UNDER THIS SECTION  
31 TO ASSIST IN THE EXPANSION OF EXISTING PRIVATE SECTOR ENTERPRISES AND  
32 THE ESTABLISHMENT OR ATTRACTION OF NEW PRIVATE SECTOR ENTERPRISES.

33 (2) (I) THE SECRETARY SHALL APPROVE CREDITS UNDER THIS  
34 SECTION PRIMARILY FOR BUSINESS ENTITIES ENGAGED IN:

35 1. MANUFACTURING OR MINING;

36 2. TRANSPORTATION OR COMMUNICATIONS;

37 3. AGRICULTURE, FORESTRY, OR FISHING;

38 4. RESEARCH, DEVELOPMENT, OR TESTING;

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1                               5. COMPUTER PROGRAMMING, DATA PROCESSING, OR  
2 OTHER COMPUTER RELATED SERVICES;

3                               6. FINANCIAL OR REAL ESTATE SERVICES;

4                               7. THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES  
5 OR WAREHOUSES;

6                               8. A PUBLIC UTILITY; OR

7                               9. ANY OTHER BUSINESS ACTIVITY IDENTIFIED IN THE  
8 STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT PRODUCED BY THE COMMISSION.

9                               (II) THE TERMS USED IN THIS PARAGRAPH TO REFER TO VARIOUS  
10 TYPES OF BUSINESSES SHALL HAVE THE SAME MEANINGS AS THOSE TERMS WHICH  
11 ARE COMMONLY DEFINED IN THE STANDARD INDUSTRIAL CLASSIFICATION  
12 MANUAL.

13                           (C) THE SECRETARY MAY NOT APPROVE A CREDIT UNDER THIS SECTION  
14 UNTIL:

15                           (1) THE DEPARTMENT HAS NOTIFIED THE LEGISLATIVE POLICY  
16 COMMITTEE AND PROVIDED INFORMATION REGARDING THE PROPOSED CREDIT;  
17 AND

18                           (2) 30 DAYS HAVE ELAPSED FROM THE TIME OF NOTIFICATION.

19                           (D) (1) A BUSINESS ENTITY MAY NOT CLAIM A CREDIT UNDER THIS  
20 SECTION UNTIL THE BUSINESS ENTITY HAS HIRED AT LEAST 50 QUALIFIED  
21 EMPLOYEES DURING A 24-MONTH PERIOD, REGARDLESS OF WHEN THE CREDIT WAS  
22 APPROVED BY THE SECRETARY.

23                           (2) (I) A QUALIFIED BUSINESS ENTITY IS ALLOWED A CREDIT  
24 APPROVED UNDER SUBSECTION (A)(1) OF THIS SECTION IN AN AMOUNT EQUAL TO  
25 2 1/2% OF THE TOTAL WAGES PAID BY THE QUALIFIED BUSINESS ENTITY DURING  
26 THE CREDIT YEAR TO ALL OF THE NEWLY HIRED QUALIFIED EMPLOYEES SUBJECT  
27 TO THE STATE INCOME TAX.

28                           (II) A QUALIFIED BUSINESS ENTITY IS ALLOWED A CREDIT  
29 APPROVED UNDER SUBSECTION (A)(2) OF THIS SECTION IN AN AMOUNT EQUAL TO  
30 5% OF THE TOTAL WAGES PAID BY THE QUALIFIED BUSINESS ENTITY DURING THE  
31 CREDIT YEAR TO ALL OF THE NEWLY HIRED QUALIFIED EMPLOYEES SUBJECT TO  
32 THE STATE INCOME TAX.

33                           (3) A QUALIFIED BUSINESS ENTITY MAY NOT CLAIM A CREDIT UNDER  
34 THIS SECTION IN EXCESS OF THE CREDIT APPROVED FOR THE QUALIFIED BUSINESS  
35 ENTITY BY THE SECRETARY.

36                           (4) THE SAME CREDIT CANNOT BE APPLIED MORE THAN ONCE AGAINST  
37 DIFFERENT TAXES BY THE SAME TAXPAYER.

38                           (5) A QUALIFIED BUSINESS ENTITY MUST OBTAIN, AND SUBMIT TO THE  
39 COMPTROLLER WITH THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED,

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1 CERTIFICATION FROM THE DEPARTMENT THAT THE ENTITY HAS MET THE  
2 REQUIREMENTS OF THIS SECTION AND IS ELIGIBLE FOR THE CREDIT.

3 (E) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE  
4 YEAR EXCEEDS THE TOTAL TAX OTHERWISE OWED BY THE QUALIFIED BUSINESS  
5 ENTITY FOR THAT TAXABLE YEAR, THE QUALIFIED BUSINESS ENTITY MAY APPLY  
6 THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER  
7 OF:

8 (I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

9 (II) THE EXPIRATION OF THE 10TH TAXABLE YEAR FROM THE  
10 CREDIT YEAR.

11 (2) THE CREDIT UNDER THIS SECTION MAY NOT BE CARRIED BACK TO  
12 A PRECEDING TAXABLE YEAR.

13 (F) IF, DURING ANY OF THE 5 YEARS SUCCEEDING THE CREDIT YEAR, THE  
14 NUMBER OF QUALIFIED EMPLOYEES EMPLOYED BY THE QUALIFYING BUSINESS  
15 ENTITY FALLS MORE THAN 5% BELOW THE AVERAGE NUMBER OF QUALIFIED  
16 EMPLOYEES EMPLOYED DURING THE CREDIT YEAR ON WHICH THE CREDIT WAS  
17 COMPUTED, THE CREDIT SHALL BE RECAPTURED AS FOLLOWS:

18 (1) THE CREDIT SHALL BE RECOMPUTED TO REDUCE THE CREDIT BY  
19 THE PERCENTAGE REDUCTION OF THE NUMBER OF QUALIFIED EMPLOYEES;

20 (2) THE RECOMPUTED CREDIT SHALL BE SUBTRACTED FROM THE  
21 AMOUNT OF CREDIT PREVIOUSLY ALLOWED; AND

22 (3) THE QUALIFYING BUSINESS ENTITY SHALL OWE THE DIFFERENCE  
23 AS TAXES PAYABLE TO THE STATE ON OR BEFORE THE END OF THE SUCCEEDING  
24 TAXABLE YEAR.

25 (G) ANY INFORMATION PROVIDED TO THE COMPTROLLER BY A QUALIFIED  
26 BUSINESS ENTITY IN CONNECTION WITH ELIGIBILITY FOR A CREDIT ALLOWED  
27 UNDER THIS SECTION SHALL BE SHARED BY THE COMPTROLLER WITH THE  
28 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND SHALL BE SUBJECT  
29 TO THE CONFIDENTIALITY REQUIREMENTS ESTABLISHED BY STATUTES OR  
30 REGULATIONS APPLICABLE TO THE COMPTROLLER.

31 (H) THE COMPTROLLER IN COOPERATION WITH THE DEPARTMENT SHALL  
32 ADMINISTER THE CREDIT UNDER THIS SECTION.

33 (I) THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO  
34 § 2-1312 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY BY  
35 NOVEMBER 1 OF EACH YEAR ON TAX CREDITS APPROVED IN THE PRECEDING  
36 FISCAL YEAR.

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1           **Article - Tax - General**

2 8-214.

3           A FINANCIAL INSTITUTION MAY CLAIM A CREDIT AGAINST THE FINANCIAL  
4 INSTITUTION FRANCHISE TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS  
5 PROVIDED UNDER ARTICLE 83A, § 5-1102 OF THE CODE.

6 8-411.

7           A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
8 SERVICE COMPANY FRANCHISE TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES  
9 AS PROVIDED UNDER ARTICLE 83A, § 5-1102 OF THE CODE.

10 10-704.4.

11           AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE  
12 INCOME TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS PROVIDED UNDER  
13 ARTICLE 83A, § 5-1102 OF THE CODE.

14           SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
15 read as follows:

16           **Article - Education**

17 21-307.

18           (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
19 INDICATED.

20                   (2) "BUSINESS ENTITY" MEANS A PERSON CONDUCTING OR OPERATING  
21 A TRADE OR BUSINESS IN MARYLAND.

22                   (3) "DIVISION" MEANS THE DIVISION OF REHABILITATION SERVICES IN  
23 THE STATE DEPARTMENT OF EDUCATION.

24                   (4) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF EDUCATION.

25                   (5) "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL WHO IS CERTIFIED  
26 AS HAVING MET THE CRITERIA ADOPTED BY THE DEPARTMENT AS AN INDIVIDUAL  
27 WHO:

28                           (I) HAS A DISABILITY;

29                           (II) IS RECEIVING OR HAS RECENTLY RECEIVED VOCATIONAL  
30 REHABILITATION SERVICES PROVIDED BY THE DIVISION; AND

31                           (III) IS READY FOR EMPLOYMENT.

32                   (6) "WAGES" MEANS WAGES PAID BY THE BUSINESS ENTITY TO A  
33 QUALIFIED EMPLOYEE ATTRIBUTABLE TO SERVICES PERFORMED IN A TRADE OR  
34 BUSINESS OF THE BUSINESS ENTITY.

35           (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A  
36 BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNT DETERMINED UNDER  
37 SUBSECTION (C) OF THIS SECTION FOR THE WAGES PAID TO A QUALIFIED

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1 EMPLOYEE THAT ARE PAID IN THE TAXABLE YEAR FOR WHICH THE BUSINESS  
2 ENTITY CLAIMS THE CREDIT.

3 (2) THE SAME TAX CREDIT CANNOT BE APPLIED MORE THAN ONCE  
4 AGAINST DIFFERENT TAXES BY THE SAME TAXPAYER.

5 (C) (1) FOR ONE TAXABLE YEAR ONLY, A CREDIT IS ALLOWED IN AN  
6 AMOUNT EQUAL TO 10% OF THE FIRST \$10,000 IN WAGES PAID BY THE BUSINESS  
7 ENTITY TO EACH QUALIFIED EMPLOYEE SUBJECT TO THE STATE INCOME TAX.

8 (2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED  
9 \$1,000 FOR EACH QUALIFIED EMPLOYEE.

10 (D) (1) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
11 SECTION FOR AN EMPLOYEE:

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

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

16 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
17 SECTION UNTIL THE DIVISION HAS CERTIFIED IN WRITING THAT THE EMPLOYEE IS  
18 A QUALIFIED EMPLOYEE.

19 (3) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
20 SECTION FOR AN EMPLOYEE WHOSE EMPLOYMENT LASTS LESS THAN 1 YEAR  
21 UNLESS THE EMPLOYEE:

22 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE  
23 EMPLOYER;

24 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO DEATH OR A  
25 FURTHER DISABILITY; OR

26 (III) IS TERMINATED FOR CAUSE.

27 (4) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
28 SECTION IF THE BUSINESS ENTITY IS CLAIMING A TAX CREDIT FOR THE SAME  
29 EMPLOYEE UNDER ARTICLE 88A, § 56 OF THE CODE.

30 (E) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR  
31 EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY FOR  
32 THAT TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT  
33 FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

34 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

35 (2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE  
36 TAXABLE YEAR IN WHICH THE WAGES FOR WHICH THE CREDIT IS CLAIMED ARE  
37 PAID.

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1 (F) IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT MUST  
2 MAKE THE ADDITION REQUIRED IN § 10-205 OR § 10-306 OF THE TAX - GENERAL  
3 ARTICLE.

4 (G) THE COMPTROLLER, IN COOPERATION WITH THE DEPARTMENT SHALL  
5 ADMINISTER THE CREDIT UNDER THIS SECTION.

6 **Article - Tax - General**

7 8-215.

8 A FINANCIAL INSTITUTION MAY CLAIM A CREDIT AGAINST THE FINANCIAL  
9 INSTITUTION FRANCHISE TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS  
10 PROVIDED UNDER § 21-307 OF THE EDUCATION ARTICLE .

11 8-412.

12 A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
13 SERVICE COMPANY FRANCHISE TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES  
14 AS PROVIDED UNDER § 21-307 OF THE EDUCATION ARTICLE.

15 10-205.

16 (b) The addition under subsection (a) of this section includes the amount of a  
17 credit claimed under:

18 (1) § 10-702 of this title for wages paid to an employee in an enterprise  
19 zone; [or]

20 (2) § 10-704.2 of this title or § 8-213 of this article for wages paid and  
21 qualified child care expenses incurred with respect to qualified employment opportunity  
22 employees; OR

23 (3) § 10-704.5 OF THIS TITLE OR § 8-215 OF THIS ARTICLE FOR WAGES  
24 PAID TO QUALIFIED EMPLOYEES.

25 10-306.

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

28 (1) § 10-205(b) of this title (Enterprise zone wage credit, [and]  
29 employment opportunity credit, AND DISABILITY WAGE CREDIT);

30 10-704.5.

31 AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE  
32 INCOME TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS PROVIDED UNDER §  
33 21-307 OF THE EDUCATION ARTICLE.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 July 1, 1996 and shall apply to all taxable years beginning after December 31, 1995 for all  
36 employees hired after January 1, 1996.