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**By: Senators Amoss, Hoffman, Boozer, Munson, McFadden, Ruben, Currie, Van Hollen, Hogan, Lawlah, Middleton, and Kasemeyer**

Introduced and read first time: February 2, 1996

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Jobs Creation Tax Credit Act of 1996**

3 FOR the purpose of allowing a credit against the State income tax, financial institution  
4 franchise tax, public service company franchise tax, and insurance premiums tax for  
5 the establishment or expansion of a major business facility in the State under certain  
6 circumstances; providing for calculation of the credit based on the number of new  
7 jobs created as a result of the establishment or expansion of the major business  
8 facility; limiting the credit allowed in any taxable year to the total tax otherwise  
9 payable for that taxable year; providing for the carry forward of unused credit;  
10 providing for recapture of the credit under certain circumstances; requiring the  
11 Comptroller to adopt certain regulations; providing for the termination of the credit  
12 of a certain date; providing for the future codification of part of this Act; providing  
13 that the provisions of this Act are not severable; defining certain terms; and  
14 generally relating to a credit against the State income tax, financial institution  
15 franchise tax, public service company franchise tax, and insurance premiums tax for  
16 the establishment or expansion of a major business facility in the State.

17 BY adding to

18 Article 83A - Department of Business and Economic Development  
19 Section 5-1101 through 5-1106 to be under the new subtitle "Subtitle 11. Jobs  
20 Creation Tax Credit"  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume)

23 BY adding to

24 Article - Tax - General  
25 Section 8-214, 8-411, and 10-704.4  
26 Annotated Code of Maryland  
27 (1988 Volume and 1995 Supplement)

28 BY adding to

29 Article 48A - Insurance Code  
30 Section 632(e)  
31 Annotated Code of Maryland

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1 (1994 Replacement Volume and 1995 Supplement)

2 BY adding to

3 Article - Insurance

4 Section 6-114

5 Annotated Code of Maryland

6 (1995 Volume)

7 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

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

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

11 SUBTITLE 11. JOBS CREATION TAX CREDIT.

12 5-1101.

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15 (B) "BUSINESS ENTITY" MEANS A PERSON CONDUCTING A TRADE OR  
16 BUSINESS IN THE STATE.

17 (C) "CREDIT YEAR" MEANS THE FIRST TAXABLE YEAR FOLLOWING THE  
18 TAXABLE YEAR IN WHICH A MAJOR BUSINESS FACILITY COMMENCED OR  
19 EXPANDED OPERATIONS.

20 (D) "MAJOR BUSINESS FACILITY" INCLUDES ANY FACILITY OF AN  
21 ENTERPRISE AT WHICH THE ENTERPRISE ENGAGES IN ANY OF THE FOLLOWING  
22 BUSINESSES OR OPERATIONS:

23 (1) MANUFACTURING;

24 (2) TRANSPORTATION;

25 (3) COMMUNICATIONS;

26 (4) BIOTECHNOLOGY;

27 (5) RESEARCH, DEVELOPMENT, AND TESTING;

28 (6) COMPUTER PROGRAMMING, DATA PROCESSING, AND OTHER  
29 COMPUTER RELATED SERVICES;

30 (7) FINANCIAL, INSURANCE, OR REAL ESTATE SERVICES;

31 (8) WAREHOUSING;

32 (9) CENTRAL ADMINISTRATIVE OFFICES OR COMPANY  
33 HEADQUARTERS; OR

34 (10) PUBLIC UTILITIES.

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1 (E) (1) "NEW PERMANENT FULL-TIME POSITION" MEANS:

2 (I) A JOB OF AN INDEFINITE DURATION THAT:

3 1. IS CREATED BY THE COMPANY AS A RESULT OF THE  
4 ESTABLISHMENT OR EXPANSION OF A MAJOR BUSINESS FACILITY IN THE STATE;  
5 AND

6 2. REQUIRES A MINIMUM OF 35 HOURS OF AN EMPLOYEE'S  
7 TIME PER WEEK FOR THE ENTIRE NORMAL YEAR OF THE COMPANY'S OPERATIONS,  
8 WHICH "NORMAL YEAR" CONSISTS OF AT LEAST 48 WEEKS; OR

9 (II) A POSITION OF INDEFINITE DURATION THAT REQUIRES A  
10 MINIMUM OF 35 HOURS OF AN EMPLOYEE'S TIME PER WEEK FOR THE PORTION OF  
11 THE TAXABLE YEAR IN WHICH THE EMPLOYEE WAS INITIALLY HIRED FOR, OR  
12 TRANSFERRED TO, THE MAJOR BUSINESS FACILITY IN THE STATE.

13 (2) "NEW PERMANENT FULL-TIME POSITION" DOES NOT INCLUDE:

14 (I) A SEASONAL OR TEMPORARY POSITION; OR

15 (II) A JOB CREATED WHEN A JOB FUNCTION IS SHIFTED FROM AN  
16 EXISTING LOCATION IN THIS STATE TO THE NEW OR EXPANDED MAJOR BUSINESS  
17 FACILITY.

18 (F) "QUALIFIED BUSINESS ENTITY" MEANS A BUSINESS ENTITY THAT THE  
19 DEPARTMENT HAS CERTIFIED AS HAVING ESTABLISHED OR EXPANDED A MAJOR  
20 BUSINESS FACILITY IN THE STATE RESULTING IN:

21 (1) THE CREATION OF AT LEAST THE THRESHOLD NUMBER OF JOBS  
22 FOR QUALIFIED FULL-TIME EMPLOYEES IN ACCORDANCE WITH § 5-1102 OF THIS  
23 SUBTITLE; OR

24 (2) THE CREATION OF NEW JOBS FOR QUALIFIED FULL-TIME  
25 EMPLOYEES WITH AN AGGREGATE PAYROLL GREATER THAN A THRESHOLD  
26 AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE THRESHOLD NUMBER OF  
27 JOBS UNDER § 5-1102 OF THIS SUBTITLE TIMES THE STATE'S AVERAGE ANNUAL  
28 SALARY, AS DETERMINED BY THE DEPARTMENT.

29 (G) "QUALIFIED FULL-TIME EMPLOYEE" MEANS AN EMPLOYEE FILLING A  
30 NEW PERMANENT FULL-TIME POSITION IN A MAJOR BUSINESS FACILITY IN THE  
31 STATE.

32 5-1102.

33 (A) (1) THE DEPARTMENT SHALL CERTIFY A BUSINESS ENTITY AS  
34 QUALIFYING FOR THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE IF THE  
35 BUSINESS ENTITY SATISFIES THE CRITERIA SET FORTH IN THIS SECTION.

36 (2) IF THE DEPARTMENT CERTIFIES A BUSINESS ENTITY AS A  
37 QUALIFYING BUSINESS ENTITY, THE DEPARTMENT SHALL CERTIFY THE DATE ON  
38 WHICH THE NEWLY ESTABLISHED OR EXPANDED FACILITY OF THE BUSINESS  
39 ENTITY COMMENCED OR EXPANDED OPERATIONS.

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1 (B) TO QUALIFY FOR THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE, A  
2 BUSINESS ENTITY SHALL ESTABLISH OR EXPAND A MAJOR BUSINESS FACILITY IN  
3 THE STATE THAT RESULTS IN:

4 (1) THE CREATION OF AT LEAST 100 JOBS FOR QUALIFIED FULL-TIME  
5 EMPLOYEES; OR

6 (2) THE CREATION OF NEW JOBS FOR QUALIFIED FULL-TIME  
7 EMPLOYEES WITH AN AGGREGATE PAYROLL GREATER THAN A THRESHOLD  
8 AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING 100 TIMES THE STATE'S  
9 AVERAGE ANNUAL SALARY, AS DETERMINED BY THE DEPARTMENT.

10 (C) (1) A BUSINESS ENTITY IS NOT ELIGIBLE FOR THE TAX CREDIT UNDER  
11 THIS SUBTITLE UNLESS THE BUSINESS ENTITY IS ENGAGED IN ONE OR MORE OF THE  
12 FOLLOWING BUSINESSES OR OPERATIONS AT THE NEWLY ESTABLISHED OR  
13 EXPANDED FACILITY:

14 (I) MANUFACTURING;

15 (II) TRANSPORTATION;

16 (III) COMMUNICATIONS;

17 (IV) BIOTECHNOLOGY;

18 (V) RESEARCH, DEVELOPMENT, AND TESTING;

19 (VI) COMPUTER PROGRAMMING, DATA PROCESSING, AND OTHER  
20 COMPUTER RELATED SERVICES;

21 (VII) FINANCIAL, INSURANCE, OR REAL ESTATE SERVICES;

22 (VIII) WAREHOUSING;

23 (IX) CENTRAL ADMINISTRATIVE OFFICES OR COMPANY  
24 HEADQUARTERS; OR

25 (X) PUBLIC UTILITIES.

26 (2) THE TERMS USED IN THIS SUBSECTION TO REFER TO VARIOUS  
27 TYPES OF BUSINESSES HAVE THE SAME MEANINGS AS THOSE TERMS ARE  
28 COMMONLY DEFINED IN THE STANDARD INDUSTRIAL CLASSIFICATION MANUAL.

29 5-1103.

30 (A) (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE  
31 AMOUNT DETERMINED UNDER THIS SECTION FOR THE ESTABLISHMENT OR  
32 EXPANSION OF A MAJOR BUSINESS FACILITY IN THE STATE.

33 (2) THE SAME TAX CREDIT MAY NOT BE APPLIED MORE THAN ONCE  
34 AGAINST DIFFERENT TAXES BY THE SAME TAXPAYER.

35 (B) (1) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR ANY  
36 QUALIFIED BUSINESS ENTITY, THE CREDIT EARNED UNDER THIS SECTION EQUALS

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1 \$1,000 MULTIPLIED TIMES THE NUMBER OF QUALIFIED FULL-TIME EMPLOYEES  
2 EMPLOYED DURING THE CREDIT YEAR.

3 (II) THE CREDIT EARNED UNDER THIS SECTION EQUALS \$1,500  
4 MULTIPLIED TIMES THE NUMBER OF QUALIFIED FULL-TIME EMPLOYEES  
5 EMPLOYED DURING THE CREDIT YEAR IF THE MAJOR BUSINESS FACILITY IS  
6 LOCATED IN:

7 1. AN AREA DESIGNATED AS AN ENTERPRISE ZONE BY THE  
8 SECRETARY UNDER § 5-402 OF THIS TITLE OR BY THE UNITED STATES  
9 GOVERNMENT;

10 2. AN AREA DESIGNATED AS AN EMPOWERMENT ZONE BY  
11 THE UNITED STATES GOVERNMENT PURSUANT TO 26 U.S.C. § 1391 ET SEQ.; OR

12 3. AN AREA DESIGNATED AS AN ELIGIBLE NEIGHBORHOOD  
13 FOR ECONOMIC REVITALIZATION ASSISTANCE UNDER ARTICLE 83B, § 2-1303 OF THE  
14 CODE.

15 (2) THE CREDIT EARNED UNDER PARAGRAPH (1) OF THIS SUBSECTION  
16 SHALL BE ALLOWED RATABLY, WITH ONE-THIRD OF THE CREDIT AMOUNT  
17 ALLOWED ANNUALLY FOR 3 YEARS BEGINNING WITH THE CREDIT YEAR.

18 (3) THE PORTION OF THE CREDIT EARNED WITH RESPECT TO ANY  
19 QUALIFIED FULL-TIME EMPLOYEE WHO IS EMPLOYED IN THE STATE FOR LESS  
20 THAN 12 FULL MONTHS DURING THE CREDIT YEAR SHALL BE DETERMINED BY  
21 MULTIPLYING THE CREDIT AMOUNT BY A FRACTION:

22 (I) THE NUMERATOR OF WHICH IS THE NUMBER OF FULL MONTHS  
23 THAT THE QUALIFIED FULL-TIME EMPLOYEE WORKED FOR THE QUALIFIED  
24 COMPANY IN THE STATE DURING THE CREDIT YEAR; AND

25 (II) THE DENOMINATOR OF WHICH IS 12.

26 (4) EACH DISTINCT MAJOR BUSINESS FACILITY OF A SINGLE TAXPAYER  
27 SHALL HAVE A SEPARATE CREDIT YEAR AND 3-YEAR ALLOWANCE PERIOD.

28 (5) A BUSINESS ENTITY MAY NOT EARN MORE THAN \$1,000,000 IN  
29 CREDITS UNDER THIS SECTION FOR ANY CREDIT YEAR.

30 (C) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE  
31 YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY  
32 FOR THAT TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A  
33 CREDIT FOR SUCCEEDING YEARS UNTIL THE EARLIER OF:

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

35 (II) THE EXPIRATION OF THE TENTH TAXABLE YEAR AFTER THE  
36 CREDIT YEAR.

37 (2) IF A TAXPAYER IS ALLOWED ANOTHER CREDIT AGAINST A TAX  
38 AGAINST WHICH THE CREDIT UNDER THIS SECTION IS ALLOWED OR HAS A CREDIT  
39 CARRYOVER FROM A PRECEDING TAXABLE YEAR, THE TAXPAYER SHALL USE ANY

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1 CREDIT THAT DOES NOT HAVE A CARRYOVER PROVISION, AND THEN ANY CREDIT  
2 THAT IS CARRIED FORWARD FROM A PRECEDING TAXABLE YEAR, BEFORE USING  
3 ANY CREDIT ALLOWED UNDER THIS SECTION.

4 (D) (1) IN THIS SUBSECTION, "RELATED PARTY" MEANS:

5 (I) A RELATED PERSON WITHIN THE MEANING OF § 267(B) OF THE  
6 INTERNAL REVENUE CODE; OR

7 (II) A TRADE OR BUSINESS UNDER COMMON CONTROL WITHIN  
8 THE MEANING OF § 52(B) OF THE INTERNAL REVENUE CODE.

9 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
10 SECTION FOR ANY EMPLOYEE:

11 (I) FOR WHICH A CREDIT UNDER THIS SECTION WAS PREVIOUSLY  
12 EARNED BY A RELATED PARTY;

13 (II) WHO WAS PREVIOUSLY EMPLOYED IN THE SAME JOB  
14 FUNCTION IN MARYLAND BY A RELATED PARTY;

15 (III) WHOSE JOB FUNCTION WAS PREVIOUSLY PERFORMED AT A  
16 DIFFERENT LOCATION IN MARYLAND BY AN EMPLOYEE OF THE BUSINESS ENTITY  
17 OR A RELATED PARTY; OR

18 (IV) WHOSE JOB FUNCTION PREVIOUSLY QUALIFIED FOR A CREDIT  
19 UNDER THIS SECTION AT A DIFFERENT MAJOR BUSINESS FACILITY OF THE BUSINESS  
20 ENTITY OR A RELATED PARTY.

21 (E) (1) FOR ANY OF THE 5 TAXABLE YEARS SUCCEEDING THE TAXABLE  
22 YEAR IN WHICH THE MAJOR BUSINESS FACILITY COMMENCED OR EXPANDED  
23 OPERATIONS, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE AVERAGE  
24 NUMBER OF QUALIFIED FULL-TIME EMPLOYEES AT A MAJOR BUSINESS FACILITY  
25 FOR WHICH THE CREDIT UNDER THIS SECTION HAS BEEN EARNED FALLS BELOW  
26 100, ALL CREDITS EARNED WITH RESPECT TO THE MAJOR BUSINESS FACILITY SHALL  
27 BE RECAPTURED.

28 (2) FOR A BUSINESS ENTITY THAT QUALIFIED FOR THE CREDIT BASED  
29 ON THE CREATION OF NEW JOBS WITH AN AGGREGATE PAYROLL GREATER THAN  
30 THE THRESHOLD PAYROLL AS DETERMINED BY THE DEPARTMENT, FOR ANY OF  
31 THE 5 TAXABLE YEARS SUCCEEDING THE TAXABLE YEAR IN WHICH THE MAJOR  
32 BUSINESS FACILITY COMMENCED OR EXPANDED OPERATIONS, IF THE AVERAGE  
33 PAYROLL FOR QUALIFIED FULL-TIME EMPLOYEES AT THE MAJOR BUSINESS  
34 FACILITY FOR WHICH THE CREDIT WAS EARNED FALLS BELOW THE THRESHOLD  
35 PAYROLL ON WHICH THE CREDIT WAS BASED, ALL CREDITS EARNED WITH RESPECT  
36 TO THE MAJOR BUSINESS FACILITY SHALL BE RECAPTURED.

37 5-1104.

38 THE COMPTROLLER SHALL ADOPT REGULATIONS TO:

39 (1) PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE  
40 OF THE CREDIT UNDER THIS SUBTITLE; AND

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1 (2) DEFINE CRITERIA FOR:

2 (I) A MAJOR BUSINESS FACILITY;

3 (II) QUALIFYING JOBS FOR A MAJOR BUSINESS FACILITY; AND

4 (III) ECONOMICALLY DISTRESSED AREAS.

5 5-1105.

6 (A) THE PROVISIONS OF THIS SUBTITLE SHALL APPLY ONLY IN INSTANCES  
7 WHERE AN ANNOUNCEMENT OF INTENT TO ESTABLISH OR EXPAND A MAJOR  
8 BUSINESS FACILITY IS MADE ON OR AFTER JANUARY 1, 1996.

9 (B) AN ANNOUNCEMENT OF INTENT TO ESTABLISH OR EXPAND A MAJOR  
10 BUSINESS FACILITY INCLUDES A PRESS CONFERENCE OR EXTENSIVE PRESS  
11 COVERAGE, PROVIDING INFORMATION WITH RESPECT TO THE IMPACT OF THE  
12 PROJECT ON THE ECONOMY OF THE AREA WHERE THE MAJOR BUSINESS FACILITY  
13 IS TO BE ESTABLISHED OR EXPANDED AND THE STATE AS A WHOLE.

14 5-1106.

15 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF THIS  
16 SUBTITLE AND THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE SHALL  
17 TERMINATE AS OF JANUARY 1, 2001.

18 (B) (1) THE TAX CREDITS AUTHORIZED UNDER THIS SUBTITLE:

19 (I) MAY BE CLAIMED ONLY FOR A NEWLY ESTABLISHED OR  
20 EXPANDED FACILITY THAT COMMENCES OPERATIONS BEFORE JANUARY 1, 2000;  
21 AND

22 (II) MAY NOT BE EARNED FOR ANY CREDIT YEAR BEGINNING ON  
23 OR AFTER JANUARY 1, 2001.

24 (2) SUBJECT TO THE LIMITATIONS UNDER THIS SUBTITLE, FOR  
25 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2001, TAX CREDITS EARNED  
26 IN CREDIT YEARS BEGINNING BEFORE JANUARY 1, 2001:

27 (I) MAY BE ALLOWED RATABLY OVER A 3-YEAR PERIOD AS  
28 PROVIDED IN § 5-1103 OF THIS SUBTITLE;

29 (II) MAY BE CARRIED FORWARD AS PROVIDED IN § 5-1103 OF THIS  
30 SUBTITLE; AND

31 (III) ARE SUBJECT TO RECAPTURE AS PROVIDED IN § 5-1103 OF THIS  
32 SUBTITLE.

33 **Article - Tax - General**

34 8-214.

35 A FINANCIAL INSTITUTION MAY CLAIM A CREDIT AGAINST THE FINANCIAL  
36 INSTITUTION FRANCHISE TAX FOR THE ESTABLISHMENT OR EXPANSION OF A

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1 MAJOR BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A, §  
2 5-1103 OF THE CODE.

3 8-411.

4 A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
5 SERVICE COMPANY FRANCHISE TAX FOR THE ESTABLISHMENT OR EXPANSION OF A  
6 MAJOR BUSINESS FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A, §  
7 5-1103 OF THE CODE.

8 10-704.4.

9 AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE  
10 INCOME TAX FOR THE ESTABLISHMENT OR EXPANSION OF A MAJOR BUSINESS  
11 FACILITY IN THE STATE AS PROVIDED UNDER ARTICLE 83A, § 5-1103 OF THE CODE.

12 **Article 48A - Insurance Code**

13 632.

14 (E) AN INSURANCE COMPANY MAY CLAIM A CREDIT AGAINST THE PREMIUM  
15 TAX FOR THE ESTABLISHMENT OR EXPANSION OF A MAJOR BUSINESS FACILITY IN  
16 THE STATE AS PROVIDED UNDER ARTICLE 83A, § 5-1103 OF THE CODE.

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

19 **Article - Insurance**

20 6-114.

21 AN INSURANCE COMPANY MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX  
22 FOR THE ESTABLISHMENT OR EXPANSION OF A MAJOR BUSINESS FACILITY IN THE  
23 STATE AS PROVIDED UNDER ARTICLE 83A, § 5-1103 OF THE CODE.

24 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the  
25 provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of this  
26 Act are not severable, and if any provision of this Act or the application thereof to any  
27 person or circumstance is held invalid for any reason in a court of competent jurisdiction,  
28 no other provision or application of this Act may be given effect.

29 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
30 take effect October 1, 1997.

31 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
32 Section 4 of this Act, this Act shall take effect July 1, 1996.