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1997 Regular Session
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By: The Speaker (Administration) and Delegates Healey, Leopold, Heller, C. Davis, Conroy, Marriott, Howard, Kopp, Bozman, Shriver, Patterson, Hubbard, Rawlings, McKee, Goldwater, D. Davis, Hecht, Dypski, Gordon, Workman, Pitkin, Bobo, and Cryor

Introduced and read first time: January 27, 1997

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Credits - Employment of Individuals with Disabilities**

3 FOR the purpose of allowing a credit against the State income tax, insurance premiums
4 tax, financial institution franchise tax, and public service company franchise tax for
5 certain wages paid and certain child care expenses incurred by certain business
6 entities with respect to certain employees with disabilities; providing for the
7 calculation and use of the credit; defining certain terms; requiring certain addition
8 modifications if a certain credit is claimed; requiring a certain certification prior to
9 claiming the credit; prohibiting an employer from claiming the credit under certain
10 circumstances; providing for the administration of the tax credits; requiring that a
11 certain study be conducted; providing for the application and termination of this
12 Act; and generally relating to tax credits for wages paid and child care expenses
13 incurred by a business entity with respect to the employment of individuals with
14 disabilities.

15 BY adding to

16 Article - Education
17 Section 21-309
18 Annotated Code of Maryland
19 (1997 Replacement Volume)

20 BY adding to

21 Article - Insurance
22 Section 6-115
23 Annotated Code of Maryland
24 (1995 Volume and 1996 Supplement)
25 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

26 BY adding to

27 Article - Tax - General
28 Section 8-216, 8-413, and 10-704.7
29 Annotated Code of Maryland

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1 (1988 Volume and 1996 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Tax - General

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

5 Annotated Code of Maryland

6 (1988 Volume and 1996 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Tax - General

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

10 Annotated Code of Maryland

11 (1988 Volume and 1996 Supplement)

12 (As enacted by Chapter 492 of the Acts of the General Assembly of 1995)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Education**

16 21-309.

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

19 (2) "BUSINESS ENTITY" MEANS:

20 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR
21 BUSINESS IN MARYLAND; OR

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

25 (3) "DIVISION" MEANS THE DIVISION OF REHABILITATION SERVICES OF
26 THE MARYLAND STATE DEPARTMENT OF EDUCATION.

27 (4) "QUALIFIED CHILD CARE EXPENSES" MEANS STATE REGULATED
28 CHILD CARE EXPENSES THAT ARE INCURRED BY A BUSINESS ENTITY TO ENABLE A
29 QUALIFIED EMPLOYEE WITH A DISABILITY TO BE GAINFULLY EMPLOYED.

30 (5) (I) "QUALIFIED EMPLOYEE WITH A DISABILITY" MEANS AN
31 INDIVIDUAL WHO:

32 1. MEETS THE DEFINITION OF AN INDIVIDUAL WITH A
33 DISABILITY AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT;

34 2. HAS A DISABILITY THAT PRESENTLY CONSTITUTES AN
35 IMPEDIMENT TO OBTAINING OR MAINTAINING EMPLOYMENT OR TO
36 TRANSITIONING FROM SCHOOL TO WORK;

37 3. IS READY FOR EMPLOYMENT; AND

1 4. HAS BEEN CERTIFIED BY THE DIVISION AS HAVING MET
2 THE CRITERIA OF A QUALIFIED EMPLOYEE WITH A DISABILITY ESTABLISHED
3 UNDER THIS SECTION.

4 (II) "QUALIFIED EMPLOYEE WITH A DISABILITY" INCLUDES AN
5 INDIVIDUAL MEETING THE DEFINITION OF SUBPARAGRAPH (I) OF THIS
6 PARAGRAPH, WHETHER OR NOT THE INDIVIDUAL RECEIVES SERVICES FROM THE
7 DIVISION.

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

13 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A
14 BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNTS DETERMINED
15 UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION FOR THE WAGES AND
16 QUALIFIED CHILD CARE EXPENSES WITH RESPECT TO A QUALIFIED EMPLOYEE
17 WITH A DISABILITY THAT ARE PAID IN THE TAXABLE YEAR FOR WHICH THE
18 BUSINESS ENTITY CLAIMS THE CREDIT.

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

21 (C) FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH QUALIFIED
22 EMPLOYEE WITH A DISABILITY, A CREDIT IS ALLOWED IN AN AMOUNT EQUAL TO:

23 (1) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE
24 QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE 1ST YEAR OF
25 EMPLOYMENT; AND

26 (2) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE
27 QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE 2ND YEAR OF
28 EMPLOYMENT.

29 (D) FOR EACH TAXABLE YEAR, FOR CHILD CARE PROVIDED OR PAID FOR BY
30 A BUSINESS ENTITY FOR THE CHILDREN OF A QUALIFIED EMPLOYEE WITH A
31 DISABILITY, CREDIT IS ALLOWED IN AN AMOUNT EQUAL TO:

32 (1) UP TO \$600 OF THE QUALIFIED CHILD CARE EXPENSES INCURRED
33 FOR EACH QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE FIRST YEAR OF
34 EMPLOYMENT; AND

35 (2) UP TO \$500 OF THE QUALIFIED CHILD CARE EXPENSES INCURRED
36 FOR EACH QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE SECOND YEAR
37 OF EMPLOYMENT.

38 (E) (1) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
39 SECTION FOR AN EMPLOYEE:

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

4

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

3 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
4 SECTION UNTIL IT HAS NOTIFIED THE DIVISION THAT A QUALIFIED EMPLOYEE
5 WITH A DISABILITY HAS BEEN HIRED.

6 (3) A BUSINESS ENTITY MAY CLAIM A CREDIT IN THE AMOUNT
7 PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION FOR AN EMPLOYEE WHOSE
8 EMPLOYMENT LASTS LESS THAN 1 YEAR IF THE EMPLOYEE:

9 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE
10 EMPLOYER;

11 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A FURTHER
12 DISABILITY OR DEATH; OR

13 (III) IS TERMINATED FOR CAUSE.

14 (4) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
15 SECTION IF THE BUSINESS ENTITY IS CLAIMING A TAX CREDIT FOR THE SAME
16 EMPLOYEE UNDER ARTICLE 88A, § 54 OF THE CODE.

17 (5) (I) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
18 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE
19 VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE
20 ANOTHER JOB, THE BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 20% OF UP TO
21 THE FIRST \$6,000 OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF
22 EMPLOYMENT.

23 (II) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
24 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR FOR A REASON OTHER THAN
25 THAT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AMOUNT OF THE
26 CREDIT SHALL BE REDUCED BY THE PROPORTION OF A YEAR THAT THE EMPLOYEE
27 DID NOT WORK.

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

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

33 (2) THE EXPIRATION OF THE 5TH TAXABLE YEAR AFTER THE TAXABLE
34 YEAR IN WHICH THE WAGES OR QUALIFIED CHILD CARE EXPENSES FOR WHICH THE
35 CREDIT IS CLAIMED ARE PAID.

36 (G) IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT MUST
37 MAKE THE ADDITION REQUIRED IN § 10-205 OR § 10-306 OF THE TAX - GENERAL
38 ARTICLE.

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1 (H) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE STATE
2 DEPARTMENT OF EDUCATION SHALL ADOPT REGULATIONS NECESSARY TO CARRY
3 OUT THE PROVISIONS OF THIS SECTION.

4 (2) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR
5 THE COMPUTATION AND CARRYOVER OF THE CREDIT UNDER § 10-704.7 OF THE TAX
6 - GENERAL ARTICLE.

7 (3) THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL ADOPT
8 REGULATIONS TO PROVIDE FOR THE COMPUTATION AND CARRYOVER OF THE
9 CREDIT UNDER §§ 8-216 AND 8-413 OF THE TAX - GENERAL ARTICLE.

10 (4) THE MARYLAND INSURANCE COMMISSIONER SHALL ADOPT
11 REGULATIONS TO PROVIDE FOR THE COMPUTATION AND CARRYOVER OF THE
12 CREDIT UNDER § 6-115 OF THE INSURANCE ARTICLE.

13 **Article - Insurance**

14 6-115.

15 AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX PAYABLE
16 UNDER THIS SUBTITLE FOR WAGES PAID TO A QUALIFIED EMPLOYEE WITH A
17 DISABILITY AND FOR CHILD CARE PROVIDED OR PAID FOR BY THE INSURER FOR
18 THE CHILDREN OF A QUALIFIED EMPLOYEE WITH A DISABILITY AS PROVIDED
19 UNDER § 21-309 OF THE EDUCATION ARTICLE.

20 **Article - Tax - General**

21 8-216.

22 A FINANCIAL INSTITUTION MAY CLAIM A CREDIT AGAINST THE FINANCIAL
23 INSTITUTION FRANCHISE TAX FOR WAGES PAID TO A QUALIFIED EMPLOYEE WITH A
24 DISABILITY AND FOR CHILD CARE PROVIDED OR PAID FOR BY A BUSINESS ENTITY
25 FOR THE CHILDREN OF A QUALIFIED EMPLOYEE WITH A DISABILITY AS PROVIDED
26 UNDER § 21-309 OF THE EDUCATION ARTICLE.

27 8-413.

28 A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC
29 SERVICE COMPANY FRANCHISE TAX FOR WAGES PAID TO A QUALIFIED EMPLOYEE
30 WITH A DISABILITY AND FOR CHILD CARE PROVIDED OR PAID FOR BY A BUSINESS
31 ENTITY FOR THE CHILDREN OF A QUALIFIED EMPLOYEE WITH A DISABILITY AS
32 PROVIDED UNDER § 21-309 OF THE EDUCATION ARTICLE.

33 10-205.

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

36 (1) § 10-702 of this title for wages paid to an employee in an enterprise
37 zone; [or]

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1 (2) § 10-704.3 of this title or § 8-213 of this article for wages paid and
 2 qualified child care expenses incurred with respect to qualified employment opportunity
 3 employees; OR

4 (3) § 10-704.7 OF THIS TITLE OR § 8-216 OF THIS ARTICLE FOR WAGES
 5 PAID AND QUALIFIED CHILD CARE EXPENSES INCURRED WITH RESPECT TO A
 6 QUALIFIED EMPLOYEE WITH A DISABILITY.

7 10-306.

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

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

12 10-704.7.

13 (A) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE
 14 INCOME TAX FOR WAGES PAID TO A QUALIFIED EMPLOYEE WITH A DISABILITY AND
 15 FOR CHILD CARE PROVIDED OR PAID FOR BY A BUSINESS ENTITY FOR THE
 16 CHILDREN OF A QUALIFIED EMPLOYEE WITH A DISABILITY AS PROVIDED UNDER §
 17 21-309 OF THE EDUCATION ARTICLE.

18 (B) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3)
 19 OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER THIS
 20 SECTION AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED BUSINESS
 21 TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS TITLE.

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

24 **Article - Tax - General**

25 10-205.

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

28 (1) § 10-702 of this title for wages paid to an employee in an enterprise
 29 zone; OR

30 (2) § 10-704.7 OF THIS TITLE OR § 8-216 OF THIS ARTICLE FOR WAGES
 31 PAID AND QUALIFIED CHILD CARE EXPENSES INCURRED WITH RESPECT TO A
 32 QUALIFIED EMPLOYEE WITH A DISABILITY.

33 10-306.

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

36 (1) § 10-205(b) of this title (Enterprise zone wage credit AND DISABILITY
 37 CREDIT);

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
2 Fiscal Services, based on information provided by and in consultation with the
3 Department of Education, the Governor's Office for Individuals with Disabilities, the
4 Developmental Disabilities Administration, the Department of Assessments and
5 Taxation, and the Comptroller, shall conduct a study of the efficacy and effectiveness of
6 the tax credit program established under Section 1 of this Act in increasing the
7 employment and prospects for self-sufficiency of the target population, including an
8 analysis of the profile of employers having taken advantage of these tax credits in hiring
9 new employees, the cost effectiveness of the subsidy in reaching State goals, and the
10 appropriateness of the level of the tax credits. The study shall also include an analysis of
11 the potential effectiveness of the program based on varying the size, duration, and
12 structure of the subsidy. The Department shall complete and present the results of the
13 study to the Senate Budget and Taxation Committee and the House Committee on Ways
14 and Means by December 1, 1999.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be
16 applicable to all taxable years beginning after December 31, 1996 but before January 1,
17 2003; provided, however, that the tax credit under § 21-309 of the Education Article, as
18 enacted under Section 1 of this Act, shall be allowed only for employees hired on or after
19 October 1, 1997 but before January 1, 2001; and provided further that any excess credits
20 under § 21-309 of the Education Article may be carried forward and, subject to the
21 limitations under § 21-309 of the Education Article, may be applied as a credit for taxable
22 years beginning on or after January 1, 2003.

23 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act
24 shall take effect on the taking effect of the termination provision specified in Section 3 of
25 Chapter 492 of the Acts of the General Assembly of 1995. If that termination provision
26 takes effect, §§ 10-205(b) and 10-306(b)(1) of the Tax - General Article as enacted by
27 Section 1 of this Act shall be void. This Act may not be interpreted to have any effect on
28 that termination provision.

29 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions
30 of Section 4 of this Act, this Act shall take effect October 1, 1997. It shall remain in effect
31 for a period of 3 years and 3 months and at the end of December 31, 2000, with no further
32 action required by the General Assembly, this Act shall be abrogated and of no further
33 force and effect.