

CF 7lr1853

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**By: The President (Administration) and Senators Hoffman, Currie, Munson, Dorman, Roesser, Stone, Green, Lawlah, Van Hollen, Madden, Trotter, Hollinger, Neall, Middleton, Kasemeyer, and Hogan Hogan, Ruben, and McFadden**

Introduced and read first time: January 17, 1997

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 25, 1997

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CHAPTER \_\_\_\_\_

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

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1 (1995 Volume and 1996 Supplement)  
2 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

3 BY adding to

4 Article - Tax - General  
5 Section 8-216, 8-413, and 10-704.7  
6 Annotated Code of Maryland  
7 (1988 Volume and 1996 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Tax - General  
10 Section 10-205(b) and 10-306(b)(1)  
11 Annotated Code of Maryland  
12 (1988 Volume and 1996 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article - Tax - General  
15 Section 10-205(b) and 10-306(b)(1)  
16 Annotated Code of Maryland  
17 (1988 Volume and 1996 Supplement)  
18 (As enacted by Chapter 492 of the Acts of the General Assembly of 1995)

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

21 **Article - Education**

22 21-309.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (2) "BUSINESS ENTITY" MEANS:

26 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR  
27 BUSINESS IN MARYLAND; OR

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

31 (3) "DIVISION" MEANS THE DIVISION OF REHABILITATION SERVICES OF  
32 THE MARYLAND STATE DEPARTMENT OF EDUCATION.

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

36 (5) (I) "QUALIFIED EMPLOYEE WITH A DISABILITY" MEANS AN  
37 INDIVIDUAL WHO:

3

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

3 2. HAS A DISABILITY THAT PRESENTLY CONSTITUTES AN  
4 IMPEDIMENT TO OBTAINING OR MAINTAINING EMPLOYMENT OR TO  
5 TRANSITIONING FROM SCHOOL TO WORK;

6 3. IS READY FOR EMPLOYMENT; AND

7 4. HAS BEEN CERTIFIED BY THE DIVISION AS HAVING MET  
8 THE CRITERIA OF A QUALIFIED EMPLOYEE WITH A DISABILITY ESTABLISHED  
9 UNDER THIS SECTION.

10 (II) "QUALIFIED EMPLOYEE WITH A DISABILITY" INCLUDES AN  
11 INDIVIDUAL MEETING THE DEFINITION OF SUBPARAGRAPH (I) OF THIS  
12 PARAGRAPH, WHETHER OR NOT THE INDIVIDUAL RECEIVES SERVICES FROM THE  
13 DIVISION.

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

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

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

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

29 (1) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE  
30 QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE 1ST YEAR OF  
31 EMPLOYMENT; AND

32 (2) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE  
33 QUALIFIED EMPLOYEE WITH A DISABILITY DURING THE 2ND YEAR OF  
34 EMPLOYMENT.

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

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

4

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

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

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

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

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

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

16 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE  
17 EMPLOYER;

18 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A FURTHER  
19 DISABILITY OR DEATH; OR

20 (III) IS TERMINATED FOR CAUSE.

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

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

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

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

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

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

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

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

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

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

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

19 **Article - Insurance**

20 6-115.

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

26 **Article - Tax - General**

27 8-216.

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

33 8-413.

34 A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
35 SERVICE COMPANY FRANCHISE TAX FOR WAGES PAID TO A QUALIFIED EMPLOYEE  
36 WITH A DISABILITY AND FOR CHILD CARE PROVIDED OR PAID FOR BY A BUSINESS  
37 ENTITY FOR THE CHILDREN OF A QUALIFIED EMPLOYEE WITH A DISABILITY AS  
38 PROVIDED UNDER § 21-309 OF THE EDUCATION ARTICLE.

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1 10-205.

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

4 (1) § 10-702 of this title for wages paid to an employee in an enterprise  
5 zone; [or]

6 (2) § 10-704.3 of this title or § 8-213 of this article for wages paid and  
7 qualified child care expenses incurred with respect to qualified employment opportunity  
8 employees; OR

9 (3) § 10-704.7 OF THIS TITLE OR § 8-216 OF THIS ARTICLE FOR WAGES  
10 PAID AND QUALIFIED CHILD CARE EXPENSES INCURRED WITH RESPECT TO A  
11 QUALIFIED EMPLOYEE WITH A DISABILITY.

12 10-306.

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

15 (1) § 10-205(b) of this title (Enterprise zone wage credit [and],  
16 employment opportunity credit, AND DISABILITY CREDIT);

17 10-704.7.

18 (A) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE  
19 INCOME TAX FOR WAGES PAID TO A QUALIFIED EMPLOYEE WITH A DISABILITY AND  
20 FOR CHILD CARE PROVIDED OR PAID FOR BY A BUSINESS ENTITY FOR THE  
21 CHILDREN OF A QUALIFIED EMPLOYEE WITH A DISABILITY AS PROVIDED UNDER §  
22 21-309 OF THE EDUCATION ARTICLE.

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

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

29 **Article - Tax - General**

30 10-205.

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

33 (1) § 10-702 of this title for wages paid to an employee in an enterprise  
34 zone; OR

35 (2) § 10-704.7 OF THIS TITLE OR § 8-216 OF THIS ARTICLE FOR WAGES  
36 PAID AND QUALIFIED CHILD CARE EXPENSES INCURRED WITH RESPECT TO A  
37 QUALIFIED EMPLOYEE WITH A DISABILITY.

7

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 AND DISABILITY  
5 CREDIT);

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

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

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

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

