

SENATE BILL 809

Unofficial Copy  
Q3

2001 Regular Session  
11r2827  
CF 11r0968

---

By: **Senators McFadden, Conway, Currie, Exum, Hughes, Kelley, Lawlah,  
and Mitchell**

Introduced and read first time: February 14, 2001

Assigned to: Rules

---

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Credit for Employment of Ex-Felons**

3 FOR the purpose of allowing a credit against the State income tax for certain wages  
4 paid by certain business entities with respect to certain ex-felon employees;  
5 providing for the calculation and use of the credit; defining certain terms;  
6 requiring a certain addition modification if a certain credit is claimed; requiring  
7 a certain certification prior to claiming the credit; prohibiting an employer from  
8 claiming the credit under certain circumstances; providing for the  
9 administration of the tax credits; requiring the Department of Public Safety and  
10 Correctional Services to adopt certain regulations; requiring the Comptroller to  
11 adopt certain regulations; requiring that a certain study be conducted; providing  
12 for the application of this Act; providing for the termination of this Act; and  
13 generally relating to tax credits for wages paid by a business entity with respect  
14 to the employment of ex-felons.

15 BY adding to  
16 Article - Correctional Services  
17 Section 2-301 to be under the new subtitle "Subtitle 3. Miscellaneous"  
18 Annotated Code of Maryland  
19 (1999 Volume and 2000 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Tax - General  
22 Section 10-205(b) and 10-306(b)  
23 Annotated Code of Maryland  
24 (1997 Replacement Volume and 2000 Supplement)

25 BY adding to  
26 Article - Tax - General  
27 Section 10-704.10  
28 Annotated Code of Maryland  
29 (1997 Replacement Volume and 2000 Supplement)

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

3 **Article - Correctional Services**

4 **SUBTITLE 3. MISCELLANEOUS.**

5 2-301.

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (2) "BUSINESS ENTITY" MEANS:

9 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS  
10 IN MARYLAND; OR

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

13 (3) (I) "QUALIFIED EX-FELON EMPLOYEE" MEANS A QUALIFIED  
14 EX-FELON, WITHIN THE MEANING OF § 51(D)(4) OF THE INTERNAL REVENUE CODE.

15 (II) "QUALIFIED EX-FELON EMPLOYEE" DOES NOT INCLUDE AN  
16 INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY OF THE RELATIONSHIPS  
17 SPECIFIED IN § 152(A)(1) THROUGH (8) OF THE INTERNAL REVENUE CODE TO, A  
18 PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE  
19 OWNERSHIP OF THE BUSINESS ENTITY.

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

24 (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A BUSINESS  
25 ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNTS DETERMINED UNDER  
26 SUBSECTION (C) OF THIS SECTION FOR WAGES PAID TO A QUALIFIED EX-FELON  
27 EMPLOYEE.

28 (C) FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH QUALIFIED  
29 EX-FELON EMPLOYEE, A CREDIT IS ALLOWED IN AN AMOUNT EQUAL TO:

30 (1) 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE  
31 QUALIFIED EX-FELON EMPLOYEE DURING THE 1ST YEAR OF EMPLOYMENT; AND

32 (2) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE  
33 QUALIFIED EX-FELON EMPLOYEE DURING THE 2ND YEAR OF EMPLOYMENT.

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

1 (I) WHO IS HIRED TO REPLACE A LAIDOFF EMPLOYEE OR TO  
2 REPLACE AN EMPLOYEE WHO IS ON STRIKE; OR

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

5 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
6 SECTION UNTIL IT HAS NOTIFIED THE STATE DEPARTMENT OF PUBLIC SAFETY AND  
7 CORRECTIONAL SERVICES THAT A QUALIFIED EX-FELON EMPLOYEE HAS BEEN  
8 HIRED.

9 (3) A BUSINESS ENTITY MAY CLAIM A CREDIT IN THE AMOUNT  
10 PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION FOR AN EMPLOYEE WHOSE  
11 EMPLOYMENT LASTS LESS THAN ONE YEAR IF THE EMPLOYEE:

12 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE  
13 EMPLOYER;

14 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A DISABILITY  
15 OR DEATH; OR

16 (III) IS TERMINATED FOR CAUSE.

17 (4) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS  
18 SECTION IF THE BUSINESS ENTITY IS CLAIMING A TAX CREDIT FOR THE SAME  
19 EMPLOYEE UNDER ARTICLE 88A, § 54 OF THE CODE OR § 21-309 OF THE EDUCATION  
20 ARTICLE.

21 (5) (I) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN  
22 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN ONE YEAR BECAUSE THE EMPLOYEE  
23 VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER  
24 JOB, THE BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 30% OF UP TO THE FIRST  
25 \$6,000 OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF  
26 EMPLOYMENT.

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

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

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

37 (2) THE EXPIRATION OF THE 5TH TAXABLE YEAR AFTER THE TAXABLE  
38 YEAR IN WHICH THE WAGES FOR WHICH THE CREDIT IS CLAIMED ARE PAID.

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) (1) THE STATE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
5 SERVICES SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS  
6 OF THIS SECTION.

7 (2) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR  
8 THE COMPUTATION AND CARRYOVER OF THE CREDIT UNDER § 10-704.10 OF THE TAX  
9 - GENERAL ARTICLE

10 10-205.

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

13 (1) § 10-702 of this title for wages paid to an employee in an enterprise  
14 zone;

15 (2) § 10-704.3 of this title or § 8-213 of this article for wages paid and  
16 qualified child care or transportation expenses incurred with respect to qualified  
17 employment opportunity employees; [or]

18 (3) § 10-704.7 of this title or § 8-216 of this article for wages paid and  
19 qualified child care or transportation expenses incurred with respect to a qualified  
20 employee with a disability; OR

21 (4) § 10-704.10 OF THIS TITLE FOR WAGES PAID TO A QUALIFIED  
22 EX-FELON EMPLOYEE.

23 10-306.

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

26 (1) § 10-205(b) of this title (Enterprise zone wage credit, employment  
27 opportunity credit, [and] disability credit, AND QUALIFIED EX-FELON EMPLOYEE  
28 CREDIT);

29 (2) § 10-205(c) of this title (Reforestation and timber stand  
30 modification);

31 (3) § 10-205(e) of this title (Net operating loss modification); and

32 (4) § 10-205(g) of this title (Unlicensed child care facility operating  
33 expenses).

1 **Article - Tax - General**

2 10-704.10.

3 (A) AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE  
4 INCOME TAX FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE AS PROVIDED  
5 UNDER § 2-301 OF THE CORRECTIONAL SERVICES ARTICLE.

6 (B) (1) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §  
7 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER  
8 THIS SECTION:

9 (I) AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED  
10 BUSINESS TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS  
11 TITLE; OR

12 (II) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF  
13 TAXES THAT THE ORGANIZATION:

14 1. IS REQUIRED TO WITHHOLD FROM THE WAGES OF  
15 EMPLOYEES UNDER § 10-908 OF THIS TITLE; AND

16 2. IS REQUIRED TO PAY TO THE COMPTROLLER UNDER §  
17 10-906(A) OF THIS TITLE.

18 (2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE  
19 YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE PAYABLE BY THE  
20 ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES THAT THE ORGANIZATION  
21 HAS WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE  
22 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE FOR THE TAXABLE YEAR, THE  
23 ORGANIZATION MAY APPLY THE EXCESS AS A CREDIT UNDER PARAGRAPH (1)(I) OR (II)  
24 OF THIS SUBSECTION IN SUCCEEDING TAXABLE YEARS FOR THE CARRYFORWARD  
25 PERIOD PROVIDED IN § 2-301 OF THE CORRECTIONAL SERVICES ARTICLE.

26 (3) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE  
27 PROCEDURES FOR CLAIMING AND APPLYING CREDITS AUTHORIZED UNDER  
28 PARAGRAPH (1)(II) OF THIS SUBSECTION.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of  
30 Legislative Services, based on information provided by and in consultation with the  
31 Department of Public Safety and Correctional Services and the Comptroller, shall  
32 conduct a study of the efficacy and effectiveness of the tax credit program established  
33 under Section 1 of this Act in increasing the employment and self-sufficiency of the  
34 target population, including an analysis of the profile of employers having taken  
35 advantage of this tax credit in hiring new employees, the cost effectiveness of the  
36 subsidy in reaching State goals, and the appropriateness of the level of the tax credit.  
37 The study shall also include an analysis of the potential effectiveness of the program  
38 based on varying the size, duration, and structure of the subsidy. The Department  
39 shall complete and present the results of the study to the Senate Budget and Taxation  
40 Committee and the House Committee on Ways and Means by December 1, 2002.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2001, and shall be applicable to all taxable years beginning after December 31,  
3 2000, but before January 1, 2006; provided, however, that the tax credit under §  
4 2-301 of the Correctional Services Article, as enacted under Section 1 of this Act, shall  
5 be allowed for employees hired on or after June 1, 2001 but before July 1, 2003; and  
6 provided further that any excess credits under § 2-301 of the Correctional Services  
7 Article may be carried forward and, subject to the limitations under § 2-301, may be  
8 applied as a credit for taxable years beginning on or after January 1, 2006. This Act  
9 shall remain in effect for a period of 2 years and at the end of June 30, 2003, with no  
10 further action required by the General Assembly, this Act shall be abrogated and of no  
11 further force and effect.