
By: **Delegates Gordon, Jones, Kaiser, McKee, and Ross**
Introduced and read first time: February 21, 2003
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Incentives and Benefits - Credits and Subtraction Modifications**

3 FOR the purpose of repealing certain credits allowed against certain State taxes;
4 altering certain tax benefits provided under law by allowing income tax
5 subtraction modifications in certain amounts under certain circumstances for
6 purposes of determining Maryland taxable income instead of allowing credits
7 against income tax liability; providing that this Act does not affect certain tax
8 credits claimed on or after a certain date by a person qualifying for the credit
9 before a certain date; providing for the application of this Act; and generally
10 relating to tax incentives and benefits under Maryland taxes.

11 BY repealing
12 Article 88A - Department of Human Resources
13 Section 54
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 2002 Supplement)

16 BY repealing
17 Article - Education
18 Section 21-309
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 BY repealing
22 Article - Insurance
23 Section 6-105 through 6-105.2 and 6-114 through 6-120
24 Annotated Code of Maryland
25 (1997 Volume and 2002 Supplement)

26 BY repealing
27 Article - Tax - General
28 Section 8-213 through 8-221, 8-406(b), 8-410 through 8-416, 10-205(b) and (i),
29 10-306(b), 10-704.3, 10-704.5, 10-704.7, 10-704.10, 10-710, and 10-715

- 1 Annotated Code of Maryland
2 (1997 Replacement Volume and 2002 Supplement)
- 3 BY renumbering
4 Article - Tax - General
5 Section 10-205(c) through (h), 10-702, 10-704.1, 10-704.4, 10-704.6, 10-704.8,
6 10-704.9, 10-707, 10-711, 10-714, and 10-717 through 10-724,
7 respectively
8 to be Section 10-205(b) through (g), 10-226, 10-227, 10-228, 10-230, 10-231,
9 10-232, 10-234, 10-236, 10-237, and 10-239 through 10-246, respectively
10 Annotated Code of Maryland
11 (1997 Replacement Volume and 2002 Supplement)
- 12 BY repealing and reenacting, with amendments,
13 Article 83A - Department of Business and Economic Development
14 Section 5-404(a)(2) and (b)(3)(i), 5-1101(d) and (f)(1)(iii), 5-1102, 5-1103, and
15 5-1501(a)(6)(iii), (7)(v), and (12)(ii) and (b) through (f)
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 2002 Supplement)
- 18 BY repealing
19 Article 83A - Department of Business and Economic Development
20 Section 5-1501(g) and (h)
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2002 Supplement)
- 23 BY repealing and reenacting, with amendments,
24 Article 83B - Department of Housing and Community Development
25 Section 4-701(c), 4-704, 4-705(c)(2) through (4), and 5-801(a)(9)(iv)3., (b), (d),
26 (e), (g), and (h)
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2002 Supplement)
- 29 BY repealing
30 Article 83B - Department of Housing and Community Development
31 Section 5-801(c) and (f)
32 Annotated Code of Maryland
33 (1998 Replacement Volume and 2002 Supplement)
- 34 BY repealing and reenacting, with amendments,
35 Article - Education
36 Section 21-501(b)(5) and (c) through (e)
37 Annotated Code of Maryland
38 (2001 Replacement Volume and 2002 Supplement)

- 1 BY repealing and reenacting, with amendments,
- 2 Article - Environment
- 3 Section 2-901(b) and (c)
- 4 Annotated Code of Maryland
- 5 (1996 Replacement Volume and 2002 Supplement)

- 6 BY repealing
- 7 Article - Environment
- 8 Section 2-901(d)
- 9 Annotated Code of Maryland
- 10 (1996 Replacement Volume and 2002 Supplement)

- 11 BY repealing and reenacting, with amendments,
- 12 Article - Labor and Employment
- 13 Section 11-702(c), 11-704, and 11-705
- 14 Annotated Code of Maryland
- 15 (1999 Replacement Volume and 2002 Supplement)

- 16 BY repealing and reenacting, with amendments,
- 17 Article - Tax - Property
- 18 Section 9-230(b)(2), (c)(3), (d)(5), and (i) through (n)
- 19 Annotated Code of Maryland
- 20 (2001 Replacement Volume and 2002 Supplement)

- 21 BY repealing
- 22 Article - Tax - Property
- 23 Section 9-230(e) through (h)
- 24 Annotated Code of Maryland
- 25 (2001 Replacement Volume and 2002 Supplement)

- 26 BY adding to
- 27 Article - Tax - General
- 28 Section 10-208(a-1), 10-229, 10-233, 10-235, 10-238, 10-306(b), and
- 29 10-308(a-1)
- 30 Annotated Code of Maryland
- 31 (1997 Replacement Volume and 2002 Supplement)

- 32 BY repealing and reenacting, with amendments,
- 33 Article - Tax - General
- 34 Section 10-218(b), 10-809, and 10-812
- 35 Annotated Code of Maryland
- 36 (1997 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Tax - General
3 Section 10-226(b) through (e), 10-227(b) and (c), 10-228, 10-230, 10-231,
4 10-232, 10-234, 10-236, 10-237, 10-239, 10-240, 10-241(b), (c), (e), and
5 (f), 10-242(b), 10-243(b) and (f), 10-244(a)(7) and (b) through (k), 10-245,
6 and 10-246 to be under the new part "Part V. Additional Adjustments to
7 Determine Maryland Taxable Income"
8 Annotated Code of Maryland
9 (1997 Replacement Volume and 2002 Supplement)
10 (As enacted by Section 5 of this Act)

11 BY repealing
12 Article - Tax - General
13 Section 10-226(f) and (g), 10-227(d), 10-241(d), 10-242(c), and 10-243(c)
14 through (e)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2002 Supplement)
17 (As enacted by Section 5 of this Act)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That Section(s) 54 of Article 88A - Department of Human Resources of
20 the Annotated Code of Maryland be repealed.

21 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 21-309 of
22 Article - Education of the Annotated Code of Maryland be repealed.

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 6-105
24 through 6-105.2 and 6-114 through 6-120 of Article - Insurance of the Annotated
25 Code of Maryland be repealed.

26 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 8-213
27 through 8-221, 8-406(b), 8-410 through 8-416, 10-205(b) and (i), 10-306(b),
28 10-704.3, 10-704.5, 10-704.7, 10-704.10, 10-710, and 10-715 of Article - Tax -
29 General of the Annotated Code of Maryland be repealed.

30 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 10-205(c)
31 through (h), 10-702, 10-704.1, 10-704.4, 10-704.6, 10-704.8, 10-704.9, 10-707,
32 10-711, 10-714, and 10-717 through 10-724, respectively, of Article - Tax - General
33 of the Annotated Code of Maryland be renumbered to be Section(s) 10-205(b) through
34 (g), 10-226, 10-227, 10-228, 10-230, 10-231, 10-232, 10-234, 10-236, 10-237, and
35 10-239 through 10-246, respectively.

36 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
37 read as follows:

Article 83A - Department of Business and Economic Development

2 5-404.

3 (a) The following incentives and initiatives shall be available to business
4 entities to the extent provided for in this section:

5 (2) The income tax [credits] BENEFITS set forth in § 10-702 of the Tax -
6 General Article;

7 (b) Any business entity moving into or locating within an enterprise zone on or
8 after the date on which the enterprise zone is designated pursuant to § 5-402 of this
9 subtitle may benefit from the incentives and initiatives set forth in this section, if:

10 (3) (i) The business entity creates new or additional jobs or makes a
11 capital investment in order to qualify for the property tax credit under § 9-103 of the
12 Tax - Property Article and the income tax [credits] BENEFITS under § 10-702 of the
13 Tax - General Article; and

14 5-1101.

15 (d) "[Credit] BENEFIT year" means the taxable year in which a qualified
16 business entity claims the [credit] SUBTRACTION MODIFICATION allowed under this
17 subtitle.

18 (f) (1) "Qualified business entity" means a person conducting or operating a
19 trade or business in Maryland who:

20 (iii) Is certified by the Secretary under § 5-1102(b) of this subtitle as
21 qualifying for the tax [credit] BENEFIT under this subtitle.

22 5-1102.

23 (a) It is the intent of the General Assembly that the job creation tax [credits]
24 BENEFITS authorized under this subtitle are for the purpose of increasing the number
25 of new jobs in the State by encouraging the expansion of existing private sector
26 enterprises and the establishment or attraction of new private sector enterprises.

27 (b) (1) (i) The Secretary shall certify a person as a qualified business
28 entity eligible for the tax [credit] BENEFIT under this subtitle if the person satisfies
29 the criteria set forth in this section.

30 (ii) A business entity may not be certified as qualifying for the tax
31 [credit] BENEFIT under this subtitle unless the business entity notifies the
32 Department of its intent to seek certification before hiring any qualified employees to
33 fill the qualified positions necessary to satisfy the requirements of paragraph (2)(i) of
34 this subsection for establishing or expanding the business facility on which the
35 [credit] BENEFIT is based.

1 (2) To qualify for the tax [credit] BENEFIT provided under this subtitle,
2 a business entity must establish or expand a business facility in the State that:

3 (i) Results in the creation of:

4 1. At least 60 qualified positions;

5 2. At least 30 qualified positions if the aggregate payroll for
6 the qualified positions is greater than a threshold amount equal to the product of
7 multiplying 60 times the State's average annual salary, as determined by the
8 Department; or

9 3. At least 25 qualified positions if the business facility
10 established or expanded by the business entity is located in a State priority funding
11 area; and

12 (ii) Is primarily engaged in one or more of the following:

13 1. Manufacturing or mining;

14 2. Transportation or communications;

15 3. Agriculture, forestry, or fishing;

16 4. Research, development, or testing;

17 5. Biotechnology;

18 6. Computer programming, data processing, or other
19 computer related services;

20 7. Central financial, real estate, or insurance services;

21 8. The operation of central administrative offices or a
22 company headquarters;

23 9. A public utility;

24 10. Warehousing;

25 11. Business services, if the business facility established or
26 expanded by the business entity is located in a State priority funding area; or

27 12. Operation of entertainment, recreation, cultural, or
28 tourism-related activities in a multiuse facility located within a revitalization area if
29 the facility generates a minimum of 1,000 new full-time equivalent filled positions in
30 a 24-month period and is not primarily used by a professional sports franchise or for
31 gaming.

1 (3) In determining whether a business facility is engaged in a qualifying
2 activity described in paragraph (2)(ii) of this subsection, the Department shall
3 consider the definitions set forth in the Standard Industrial Classification Manual.

4 (c) (1) A qualified business entity may claim [a tax credit] AN INCOME TAX
5 SUBTRACTION MODIFICATION in the amount determined under this section.

6 (2) (i) Except as otherwise provided in this section, the [credit]
7 SUBTRACTION MODIFICATION earned under this section equals the lesser of:

8 1. \$1,000 multiplied times the number of qualified
9 employees employed by the qualified entity during the [credit] BENEFIT year; and

10 2. 2.5% of the wages paid by the qualified business entity
11 during the [credit] BENEFIT year to the qualified employees.

12 (ii) For qualified employees working in a facility located in a
13 revitalization area, the [credit] SUBTRACTION MODIFICATION earned under this
14 section equals the lesser of:

15 1. \$1,500 multiplied times the number of qualified
16 employees employed by the qualified entity during the [credit] BENEFIT year; and

17 2. 5% of the wages paid by the qualified business entity
18 during the credit year to the qualified employees.

19 (3) The [credit] SUBTRACTION MODIFICATION earned under paragraph
20 (2) of this subsection shall be allowed ratably, with one-half of the [credit]
21 SUBTRACTION MODIFICATION amount allowed annually for 2 years beginning with
22 the [credit] BENEFIT year.

23 (4) The [credit] SUBTRACTION MODIFICATION earned by a qualified
24 business entity under this subtitle may not exceed \$1,000,000 for any [credit]
25 BENEFIT year.

26 [(5) The same credit cannot be applied more than once against different
27 taxes by the same taxpayer.]

28 [(6)] (5) (i) To be certified as a qualified business entity, a business
29 entity shall submit the following to the Department in accordance with regulations
30 adopted by the Department:

31 1. The effective date of the start-up or expansion;

32 2. The number of full-time employees prior to the start-up
33 or expansion and the payroll of the existing employees;

34 3. The number of qualified positions created, qualified
35 employees hired, and the payroll of those employees; and

1 4. Any other information that the Department requires by
2 regulation.

3 (ii) The Department may require any information required under
4 this paragraph to be verified by an independent auditor selected by the business
5 entity.

6 [(7)] (6) A qualified business entity must obtain, and submit to the
7 appropriate State agency with the tax return on which the [credit] SUBTRACTION
8 MODIFICATION is claimed, certification from the Department that the entity has met
9 the requirements of this section and is eligible for the [credit] SUBTRACTION
10 MODIFICATION.

11 [(d) (1) If the credit allowed under this section in any taxable year exceeds
12 the total tax otherwise due from the qualified business entity for that taxable year,
13 the qualified business entity may apply the excess as a credit for succeeding taxable
14 years until the earlier of:

15 (i) The full amount of the excess is used; or

16 (ii) The expiration of the 5th taxable year from the credit year.

17 (2) The credit under this section may not be carried back to a preceding
18 taxable year.]

19 [(e) (D) (1) If, during any of the 3 years succeeding the [credit] BENEFIT
20 year, the number of qualified positions of the qualifying business entity falls more
21 than 5% below the average number of qualified positions during the [credit]
22 BENEFIT year on which the [credit] SUBTRACTION MODIFICATION was computed,
23 the [credit] SUBTRACTION MODIFICATION shall be recaptured as follows:

24 (i) The [credit] SUBTRACTION MODIFICATION shall be
25 recomputed to reduce the [credit] SUBTRACTION MODIFICATION by the percentage
26 reduction of the number of qualified employees;

27 (ii) The recomputed [credit] SUBTRACTION MODIFICATION shall
28 be subtracted from the amount of [credit] SUBTRACTION MODIFICATION previously
29 allowed; and

30 (iii) The qualifying business entity shall [pay] ADD the difference
31 [as taxes payable to the State] TO MARYLAND TAXABLE INCOME for the taxable year
32 in which the number of qualified positions falls more than 5% below the average
33 number of qualified positions during the [credit] BENEFIT year.

34 (2) If, during any of the 3 years succeeding the [credit] BENEFIT year,
35 the average number of qualified positions falls below the applicable threshold number
36 of positions under subsection (b)(2)(i) of this section, all [credits] BENEFITS earned
37 shall be recaptured.

1 (3) (i) During the 3 taxable years succeeding the [credit] BENEFIT
2 year, the qualified business entity shall supply information required by the
3 Department in regulation to verify that the business entity is not subject to
4 paragraph (1) or (2) of this subsection.

5 (ii) The Department may require any information required under
6 this paragraph to be verified by an independent auditor selected by the business
7 entity.

8 [(f)] (E) Any information provided to the Comptroller or the appropriate
9 agency by a qualified business entity in connection with eligibility for a credit allowed
10 under this section shall be shared by the Comptroller or the appropriate agency with
11 the Department of Business and Economic Development and shall be subject to the
12 confidentiality requirements established by statutes or regulations applicable to the
13 Comptroller or the appropriate agency.

14 [(g)] (F) (1) Subject to the provisions of this subsection, the Secretary shall
15 adopt regulations to carry out the provisions of this subtitle.

16 (2) The Comptroller shall adopt regulations to provide for the
17 computation[, carryover,] and recapture of the [credit] SUBTRACTION
18 MODIFICATION under [§ 10-704.4] § 10-228 of the Tax - General Article.

19 [(3) The Department of Assessments and Taxation shall adopt
20 regulations to provide for the computation, carryover, and recapture of the credit
21 under §§ 8-214 and 8-411 of the Tax - General Article.

22 (4) The Maryland Insurance Commissioner shall adopt regulations to
23 provide for the computation, carryover, and recapture of the credit under § 6-114 of
24 the Insurance Article.]

25 [(h)] (G) The Department shall report to the Governor and, subject to § 2-1246
26 of the State Government Article, to the General Assembly by December 31 of each
27 year on the business entities certified as eligible for tax [credits] BENEFITS in the
28 preceding fiscal year.

29 5-1103.

30 (a) Subject to the provisions of this section, the provisions of this subtitle and
31 the tax [credit] BENEFIT authorized under this subtitle shall terminate as of January
32 1, 2007.

33 (b) (1) The tax [credits] BENEFIT authorized under this subtitle:

34 (i) May be claimed only for qualified positions at a newly
35 established or expanded facility that commences operations before January 1, 2006;
36 and

37 (ii) May not be earned for any [credit] BENEFIT year beginning on
38 or after January 1, 2007.

1 (2) Subject to the limitations under this subtitle, for taxable years
2 beginning on or after January 1, 2007, tax [credits] BENEFITS earned in [credit]
3 BENEFIT years beginning before January 1, 2007, may be allowed ratably over a
4 2-year period[, may be carried forward,] and are subject to recapture as provided in
5 § 5-1102 of this subtitle.

6 5-1501.

7 (a) (6) (iii) "Eligible project costs" does not include any costs incurred by a
8 business entity before notifying the Department of its intent to seek certification as
9 qualifying for the tax [credit] BENEFIT under this section.

10 (7) "Qualified business entity" means a person that:

11 (v) Is certified by the Secretary under subsection (e) of this section
12 as qualifying for the tax [credits] BENEFITS under this section.

13 (12) (ii) "Eligible start-up costs" does not include any costs incurred by
14 a business entity before notifying the Department of its intent to seek certification as
15 qualifying for the tax [credit] BENEFIT under this section.

16 (b) (1) A qualified business entity may claim [a tax credit] AN INCOME TAX
17 SUBTRACTION MODIFICATION under this subsection for the costs of an eligible
18 economic development project in a qualified distressed county if the amount of the
19 qualified business entity's total eligible project costs for the eligible economic
20 development project is at least \$500,000.

21 (2) [(i)] Subject to the limitation under subparagraph (ii) of this
22 paragraph, the [credit] SUBTRACTION MODIFICATION allowed under this subsection
23 equals 100% of the eligible project costs for the eligible economic development
24 project[, less the amount of the credit allowed with respect to the project for prior
25 taxable years].

26 [(ii) Except as provided in paragraphs (4) and (5) of this subsection,
27 the credit allowed under this subsection for any taxable year may not exceed the State
28 tax for the taxable year on the qualified business entity's income generated by or
29 arising out of the project, as determined under paragraph (3) of this subsection.]

30 [(3) (i) For a qualified business entity other than a person subject to
31 taxation under Title 6 of the Insurance Article, the State tax for the taxable year on
32 the qualified business entity's income generated by or arising out of an eligible
33 economic development project shall equal the difference between:

34 1. The State tax without regard to this section; and

35 2. The State tax on the qualified business entity's Maryland
36 taxable income reduced by the amount of its net income attributable to the eligible
37 economic development project.

1 (ii) 1. If an eligible economic development project is a totally
2 separate facility, net income attributable to the project shall be determined under the
3 separate accounting method reflecting only the gross income, deductions, expenses,
4 gains, and losses that are directly attributable to the facility and overhead expenses
5 apportioned to the facility.

6 2. If the eligible economic development project is an
7 expansion to a previously existing facility:

8 A. Net income attributable to the entire facility shall be
9 determined under the separate accounting method reflecting only the gross income,
10 deductions, expenses, gains, and losses that are directly attributable to the facility
11 and overhead expenses apportioned to the facility; and

12 B. The net income attributable to the eligible economic
13 development project shall be determined by apportioning the separate accounting net
14 income of the entire facility to the eligible economic development project by a formula
15 approved by the Comptroller or the Department of Assessments and Taxation.

16 3. If a qualified business entity can show to the satisfaction
17 of the Comptroller or the Department of Assessments and Taxation that the nature of
18 the operations and activities of the qualified business entity are such that it is not
19 practical to use the separate accounting method to determine the net income from the
20 facility at which the eligible economic development project is located, the qualified
21 business entity shall determine net income from the eligible economic development
22 project using an alternative method approved by the Comptroller or the Department
23 of Assessments and Taxation.

24 (iii) A qualified business entity that is subject to taxation under
25 Title 6 of the Insurance Article may not claim the credit under this subsection for the
26 taxable year in which the project is placed in service or for the first 4 taxable years
27 following the taxable year in which the project is placed in service.

28 (4) If the eligible project costs for the eligible economic development
29 project exceed the State tax on the qualified business entity's income generated by or
30 arising out of the project for the taxable year in which the project is placed in service,
31 the qualified business entity may apply any excess as a credit for succeeding taxable
32 years against the State tax on the qualified business entity's income generated by or
33 arising out of the project until the earlier of:

34 (i) The full amount of the excess is used; or

35 (ii) The expiration of the 14th taxable year following the taxable
36 year in which the project is placed in service.

37 (5) (i) Subject to the limitation under subparagraph (ii) of this
38 paragraph and subject to subsection (h) of this section, for any taxable year after the
39 4th taxable year following the taxable year in which the project is placed in service
40 but before the 15th taxable year following the taxable year in which the project is
41 placed in service:

1 1. A qualified business entity other than a person subject to
2 taxation under Title 6 of the Insurance Article:

3 A. May apply any excess of eligible project costs for the
4 eligible economic development project over the cumulative amount used as a tax
5 credit under this subsection for the taxable year and all prior taxable years as a tax
6 credit against the State tax for the taxable year on the qualified business entity's
7 income other than income generated by or arising out of the project; and

8 B. May claim a refund in the amount, if any, by which the
9 unused excess exceeds the State tax for the taxable year on the qualified business
10 entity's income other than income generated by or arising out of the project; and

11 2. A qualified business entity that is subject to taxation
12 under Title 6 of the Insurance Article:

13 A. May apply any excess of eligible project costs for the
14 eligible economic development project over the cumulative amount used as a tax
15 credit under this subsection for the taxable year and all prior taxable years as a tax
16 credit against the premium tax imposed for the taxable year; and

17 B. May claim a refund in the amount, if any, by which the
18 unused excess exceeds the premium tax for the taxable year.

19 (ii) For any taxable year, the total of the amounts used as a tax
20 credit and claimed as a refund as provided in this paragraph may not exceed the
21 amount of taxes that the qualified business entity is required to withhold for the
22 taxable year from the wages of qualified employees under § 10-908 of the Tax -
23 General Article.]

24 (c) (1) A qualified business entity that locates in a qualified distressed
25 county may claim a [tax credit] SUBTRACTION MODIFICATION in the amount
26 provided in paragraph (2) of this subsection.

27 (2) The [credit] SUBTRACTION MODIFICATION allowed under this
28 subsection for each taxable year equals the lesser of:

29 (i) 100% of the qualified business entity's eligible start-up costs
30 associated with establishing or expanding a business facility in a qualified distressed
31 county[, less the amount of the credit allowed with respect to the project for prior
32 taxable years]; or

33 (ii) The product of multiplying \$10,000 times the number of
34 qualified employees employed at the new or expanded business facility.

35 [(3) If the credit allowed under this subsection for the taxable year in
36 which a qualified business entity locates in a qualified distressed county exceeds the
37 total tax otherwise due from the qualified business entity for that taxable year, the
38 qualified business entity may apply the excess as a credit for succeeding taxable years
39 until the earlier of:

- 1 (i) The full amount of the excess is used; or
- 2 (ii) The expiration of the 14th taxable year following the taxable
3 year in which the qualified business entity locates in a qualified distressed county.
- 4 (4) (i) Subject to the limitation under subparagraph (ii) of this
5 paragraph and subject to subsection (h) of this section, for any taxable year after the
6 4th taxable year following the taxable year in which the qualified business entity
7 locates in a qualified distressed county but before the 15th taxable year following the
8 taxable year in which the qualified business entity locates in a qualified distressed
9 county, the qualified business entity may claim a refund in the amount, if any, by
10 which the qualified business entity's eligible start-up costs exceed the cumulative
11 amount used as a tax credit under this subsection for the taxable year and all prior
12 taxable years.
- 13 (ii) For any taxable year, the total amount claimed as a refund as
14 provided in this paragraph may not exceed the amount of taxes that the qualified
15 business entity is required to withhold for the taxable year from the wages of
16 qualified employees under § 10-908 of the Tax - General Article.]
- 17 (d) The Secretary shall adopt regulations to specify criteria and procedures for
18 application and approval of projects for the tax [credit] BENEFIT under this section.
- 19 (e) (1) A business entity may not be certified as qualifying for the tax
20 [credit] BENEFIT under this section unless the business entity notifies the
21 Department of its intent to seek certification before hiring any qualified employees to
22 fill the qualified positions necessary to satisfy the employment threshold required to
23 qualify for the tax [credit] BENEFIT under subsection (a)(7)(ii) of this section.
- 24 (2) (i) A business entity may not be certified as qualifying for the tax
25 [credit] BENEFIT under this section if an announcement of intent to establish or
26 expand the business facility was made on or before April 10, 1999.
- 27 (ii) For purposes of this paragraph, an announcement of intent to
28 establish or expand a business facility includes a press conference or press coverage
29 regarding the project.
- 30 (3) To be certified as a qualified business entity, a business entity shall
31 submit the following to the Secretary in accordance with regulations adopted by the
32 Secretary:
- 33 (i) The effective date of the start-up or expansion;
- 34 (ii) The number of full-time employees prior to the start-up or
35 expansion and the payroll of the existing employees;
- 36 (iii) The number of qualified positions created, qualified employees
37 hired, and the payroll of those employees; and

1 (iv) Any other information that the Secretary requires by
2 regulation.

3 (4) The Secretary may require any information required under this
4 subsection to be verified by an independent auditor selected by the qualified business
5 entity.

6 (f) A qualified business entity must obtain and submit to the appropriate
7 State agency with the tax return on which the [credit] BENEFIT is claimed,
8 certification from the Secretary that the entity has met the requirements of this
9 section and is eligible for the [credit] BENEFIT.

10 [(g) A refund payable to a qualified business entity under subsection (b)(5) or
11 (c)(4) of this section:

12 (1) Operates to reduce the income tax revenue from corporations if the
13 qualified business entity is a corporation subject to the income tax under Title 10 of
14 the Tax - General Article;

15 (2) Operates to reduce insurance premium tax revenues if the qualified
16 business entity is subject to taxation under Title 6 of the Insurance Article; and

17 (3) Operates to reduce the income tax revenue from individuals if the
18 business entity is:

19 (i) An individual subject to the income tax under Title 10 of the Tax
20 - General Article; or

21 (ii) An organization exempt from taxation under § 501(c)(3) or (4) of
22 the Internal Revenue Code.]

23 [(h) If the pay for the majority of the qualified positions created as a result of
24 the establishment or expansion of a business facility is at least 250% of the federal
25 minimum wage, the provisions of subsections (b)(5) and (c)(4) of this section shall
26 apply beginning with the taxable year after the 2nd taxable year following the
27 taxable year in which the qualified business entity locates in a qualified distressed
28 county.]

29 **Article 83B - Department of Housing and Community Development**

30 4-701.

31 (c) "Business entity" means a person that:

32 (1) Conducts or operates a trade or business in the State; and

33 (2) Is subject to[:

34 (i) The] THE State income tax on individuals or corporations[;

- 1 (ii) The financial institution franchise tax;
- 2 (iii) The public service company franchise tax; or
- 3 (iv) The insurance premiums tax].

4 4-704.

5 (a) [(1)] Except as otherwise provided in this section, a business entity may
6 claim [a tax credit] AN INCOME TAX SUBTRACTION MODIFICATION in the amount
7 determined under subsection (b) of this section for contributions to an approved
8 project.

9 [(2) The same tax credit may not be applied more than once against
10 different taxes by the same taxpayer.]

11 (b) (1) Except as provided in paragraph (2) of this subsection, the [credit]
12 SUBTRACTION MODIFICATION allowed under this section equals [50 percent of the]
13 THE TOTAL amount of contributions that are approved by the Department under
14 subsection (c) of this section made during the taxable year of the business entity.

15 (2) [(i)] The [credit] SUBTRACTION MODIFICATION allowed to a
16 business entity under this section may not exceed[,] \$125,000 for any taxable year of
17 the business entity[, the lesser of:

- 18 1. \$125,000; or
- 19 2. The total amount of tax otherwise payable by the business
20 entity for the taxable year].

21 [(ii) Any excess credit that would be allowed but for the limitations
22 under subparagraph (i) of this paragraph may be carried over and applied as a credit
23 for succeeding taxable years until the earlier of:

- 24 1. The full amount of the excess is used; or
- 25 2. The expiration of the fifth taxable year after the taxable
26 year in which the contribution was made.]

27 (c) (1) The [credit] SUBTRACTION MODIFICATION allowed under this
28 section may not be allowed unless the business entity has applied for and received
29 approval under this subsection by the Department for each contribution as to which
30 the [credit] SUBTRACTION MODIFICATION is claimed.

31 (2) Each application for approval of a contribution shall contain:

- 32 (i) The name of the approved project to which the contribution is to
33 be made;
- 34 (ii) The amount of the contribution; and

1 (iii) 1. Except as provided in subitem 2 of this item, a
2 certification by an independent and unrelated third party as to the value of any
3 nonmonetary contribution included; or

4 2. If the contribution is of new goods, an invoice or receipt
5 provided by the business entity as certification of the contribution's net cost to the
6 business entity.

7 (3) The Department may not approve an application for approval of a
8 contribution if it determines that:

9 (i) The maximum amount of contributions eligible for the [tax
10 credit] SUBTRACTION MODIFICATION for that project for the fiscal year will be
11 exceeded by the sum of:

12 1. The amount of the proposed contribution; and

13 2. The total amount of contributions previously approved to
14 that project for the fiscal year; or

15 (ii) The applicant has overstated the value of any nonmonetary
16 contribution included.

17 (4) By January 31 of each year, the Department shall report to the
18 Department of Assessments and Taxation, the Comptroller, and the Maryland
19 Insurance Administration the contributions that the Department has approved under
20 this section in the preceding calendar year.

21 4-705.

22 (c) (2) Each approval of a proposal:

23 (i) Shall be in writing; and

24 (ii) Shall state the maximum amount of contributions to the
25 approved project eligible for the tax [credits] BENEFITS provided under § 4-704 of
26 this subtitle.

27 (3) The sum of contributions eligible for the tax [credits] BENEFITS
28 provided under § 4-704 of this subtitle for all projects approved for each fiscal year
29 may not exceed \$2,000,000.

30 (4) In approving or disapproving a proposal, and in determining the
31 maximum amount of contributions to an approved project that will be eligible for the
32 tax [credits] BENEFITS provided under § 4-704 of this subtitle, the Department:

33 (i) Shall consider:

34 1. The need for the project in relation to the need for other
35 projects proposed;

1 (i) The name of the owner or developer that has applied for
2 approval of the [tax credit] SUBTRACTION MODIFICATION;

3 (ii) The name and address of the proposed or certified
4 rehabilitation and the county where the project is located;

5 (iii) The dates of receipt and approval by the trust of all applications
6 regarding the project, including applications for certification that a structure or
7 property will qualify as a certified heritage structure, for approval of the proposed
8 rehabilitation, and for certification of the completed rehabilitation;

9 (iv) The estimated rehabilitation expenditures stated in the
10 application for approval of the plan of proposed rehabilitation; and

11 (v) For projects completed during the calendar quarter, the final
12 qualified rehabilitation costs for the project and the amount of the [credit]
13 SUBTRACTION MODIFICATION for the certified rehabilitation.

14 (3) The report required on January 15 of each year shall summarize for
15 the preceding calendar year, for each category of certified rehabilitations specified in
16 paragraph (4) of this subsection:

17 (i) The number of applicants for:

18 1. Certification that a structure or property will qualify as a
19 certified heritage structure;

20 2. Approval of proposed rehabilitations; or

21 3. Certification of completed rehabilitations;

22 (ii) The number of proposed rehabilitations approved and the
23 number of completed rehabilitations certified as qualifying for the tax [credit]
24 SUBTRACTION MODIFICATION under this section; and

25 (iii) The total estimated rehabilitation expenditures stated in
26 approved applications for approval of plans of proposed rehabilitation and the total
27 qualified rehabilitation expenditures for completed rehabilitations certified.

28 (4) The information required under paragraph (3) of this subsection shall
29 be provided in the aggregate and separately for each of the following categories of
30 certified rehabilitations:

31 (i) Owner-occupied single family residential structures; and

32 (ii) Commercial rehabilitations.

33 [(h)] (F) (1) Subject to the provisions of this subsection, the provisions of
34 this section and the [tax credit] SUBTRACTION MODIFICATION authorized under this
35 section shall terminate as of June 1, 2004.

1 (2) On and after June 1, 2004:

2 (i) The [tax credit] SUBTRACTION MODIFICATION authorized
3 under this section may be claimed for rehabilitation projects for which an application
4 for approval of a plan of proposed rehabilitation was received by the Director on or
5 before May 31, 2004.

6 (ii) The Director shall continue to report to the Governor and the
7 General Assembly as required under subsection (g) for as long as any rehabilitation
8 project for which an application for approval of a plan of proposed rehabilitation was
9 received by the Director on or before May 31, 2004 remains incomplete.

10 **Article - Education**

11 21-501.

12 (b) (5) A contractor at a multicraft construction site may not qualify for the
13 tax [credit] BENEFIT authorized under this section for more than 2 students.

14 (c) (1) In order for an employer to be eligible to claim a [tax credit]
15 SUBTRACTION MODIFICATION UNDER THIS SECTION, each student must be employed
16 by the employer for 200 hours or more.

17 (2) An employer may claim a tax credit in an amount equal to 15% of the
18 wages paid to each student during the taxable year under a work-based learning
19 program that has been approved by the Department as qualifying for the [tax credit]
20 SUBTRACTION MODIFICATION under this section.

21 (3) The cumulative [credit] SUBTRACTION MODIFICATION allowed
22 under this section to an employer in the current taxable year and all previous taxable
23 years may not exceed \$1,500 per student.

24 [(4) If the credit allowed under this subsection in any taxable year
25 exceeds the total tax otherwise payable by the employer for that taxable year, the
26 excess may be carried forward and applied as a credit for succeeding taxable years
27 until the earlier of:

28 (i) The full amount of excess is used; or

29 (ii) The expiration of the 5th taxable year in which the contribution
30 was made.]

31 (d) The [tax credit] SUBTRACTION MODIFICATION authorized under this
32 section shall be allowed only for taxable years beginning on or before December 31,
33 2003.

34 (e) (1) The Department shall adopt regulations to implement this section.

1 (c) The [credit] SUBTRACTION MODIFICATION allowed under this section
2 may not exceed \$50 per individual employee per month.

3 [(d) (1) The credit allowed under this section may not exceed the total tax
4 otherwise payable by the business entity for that taxable year, determined before the
5 application of the credit under this section but after the application of any other
6 credit.

7 (2) The unused amount of the credit under this section for any taxable
8 year may not be carried over to any other taxable year.]

9 **Article - Labor and Employment**

10 11-702.

11 (c) The purpose of the pilot program is to implement a program in at least two
12 areas of the State to provide fidelity bonds and to qualify business entities for tax
13 [credits] BENEFITS to encourage the long-term employment of qualified ex-felon
14 employees under the pilot program.

15 11-704.

16 (a) Except as provided in subsection (c) of this section, a business entity that
17 hires a qualified ex-felon employee through the pilot program established under this
18 subtitle may claim [a tax credit] AN INCOME TAX SUBTRACTION MODIFICATION in
19 the amounts determined under subsection (b) of this section for wages paid to a
20 qualified ex-felon employee.

21 (b) For each taxable year, for the wages paid to each qualified ex-felon
22 employee, a [credit] SUBTRACTION MODIFICATION is allowed in an amount equal to:

23 (1) 30% of up to the first \$6,000 of the wages paid to the qualified
24 ex-felon employee during the first year of employment; and

25 (2) 20% of up to the first \$6,000 of the wages paid to the qualified
26 ex-felon employee during the second year of employment.

27 (c) (1) A business entity may not claim the [credit] SUBTRACTION
28 MODIFICATION under this section for an employee:

29 (i) who is hired to replace a laid off employee or to replace an
30 employee who is on strike; or

31 (ii) for whom the business entity simultaneously receives federal or
32 State employment training benefits.

33 (2) A business entity may not claim the [credit] SUBTRACTION
34 MODIFICATION under this section until it has notified the Department that a
35 qualified ex-felon employee has been hired.

1 (3) A business entity may claim a [credit] SUBTRACTION MODIFICATION
2 in the amount provided in paragraph (5) of this subsection for an employee whose
3 employment lasts less than 1 year if the employee:

4 (i) voluntarily terminates employment with the employer;

5 (ii) is unable to continue employment due to a disability or death;
6 or

7 (iii) is terminated for cause.

8 (4) A business entity may not claim the [credit] SUBTRACTION
9 MODIFICATION under this section if the business entity is claiming a [tax credit]
10 SUBTRACTION MODIFICATION for the same employee under Article 88A, § 54 of the
11 Code or § 21-309 of the Education Article.

12 (5) (i) If a business entity is entitled to a [tax credit] SUBTRACTION
13 MODIFICATION for an employee who is employed for less than 1 year because the
14 employee voluntarily terminates employment with the employer to take another job,
15 the business entity may claim a [tax credit] SUBTRACTION MODIFICATION of 30% of
16 up to the first \$6,000 of the wages paid to the employee during the course of
17 employment.

18 (ii) If a business entity is entitled to a [tax credit] SUBTRACTION
19 MODIFICATION for an employee who is employed for less than 1 year for a reason
20 other than that described in subparagraph (i) of this paragraph, the amount of the
21 [credit] SUBTRACTION MODIFICATION shall be reduced by the proportion of a year
22 that the employee did not work.

23 [(d) If the credit allowed under this section in any taxable year exceeds the
24 total tax otherwise payable by the business entity for that taxable year, a business
25 entity may apply the excess as a credit for succeeding taxable years until the earlier
26 of:

27 (1) the full amount of the excess is used; or

28 (2) the expiration of the fifth taxable year after the taxable year in
29 which the wages for which the credit is claimed are paid.

30 (e) If a credit is claimed under this section, the claimant must make the
31 addition required in § 10-205 or § 10-306 of the Tax - General Article.]

32 11-705.

33 (a) The Department, in consultation with the Board, shall adopt regulations
34 necessary to carry out the provisions of this subtitle.

35 (b) The Comptroller shall adopt regulations to provide for the computation
36 [and carryover of the credit under § 10-704.10] OF THE SUBTRACTION
37 MODIFICATION UNDER § 10-233 of the Tax - General Article.

1 (C) (1) THE PROVISIONS OF THIS SUBTITLE AND THE INCOME TAX
2 SUBTRACTION MODIFICATION AUTHORIZED UNDER THIS SUBTITLE SHALL
3 TERMINATE AS OF JANUARY 1, 2005.

4 (2) THE SUBTRACTION MODIFICATION AUTHORIZED UNDER THIS
5 SUBTITLE MAY BE CLAIMED ONLY FOR EMPLOYEES HIRED ON OR AFTER JULY 1, 2002
6 BUT BEFORE DECEMBER 31, 2004.

7 **Article - Tax - Property**

8 9-230.

9 (b) (2) (i) If a property tax credit is granted under paragraph (1) of this
10 subsection, a business entity that meets the requirements for the property tax credit
11 under this section and obtains certification from the county or municipal corporation
12 may claim a [State tax credit against] SUBTRACTION MODIFICATION FOR PURPOSES
13 OF the individual or corporate income tax[, insurance premiums tax, or financial
14 institution franchise tax] as provided under subsection (c)(3) of this section.

15 (ii) If an enhanced property tax credit is granted under this section
16 and a business entity and its affiliates meet the requirements for the enhanced
17 property tax credit and obtain certification from the county or municipal corporation,
18 the business entity or any of its affiliates may claim a [State tax credit against]
19 SUBTRACTION MODIFICATION FOR PURPOSES OF the individual or corporate income
20 tax[, insurance premiums tax, or financial institution franchise tax] as provided
21 under subsection (d)(4) of this section.

22 (c) (3) On receipt of notification under subsection (b)(7) of this section that a
23 business entity has been certified for a property tax credit under this subsection, the
24 Department shall compute and certify to the Comptroller [or, in the case of the
25 insurance premiums tax, the Maryland Insurance Commissioner] the amount of the
26 [State tax credit] SUBTRACTION MODIFICATION authorized under this subsection
27 that may be claimed [against] FOR PURPOSES OF the individual or corporate income
28 tax, [insurance premiums tax, or financial institution franchise tax that would
29 otherwise be due] to, equal a percentage of the amount of property tax imposed on the
30 assessment of the new or expanded premises, as follows:

- 31 (i) 28% in the 1st and 2nd taxable years;
32 (ii) 21% in the 3rd and 4th taxable years;
33 (iii) 14% in the 5th and 6th taxable years; and
34 (iv) 0% for each taxable year thereafter.

35 (d) (5) On receipt of notification under subsection (b)(7) of this section that a
36 business entity has been certified for an enhanced property tax credit under this
37 subsection, the Department shall compute and certify to the Comptroller [or, in the
38 case of the insurance premiums tax, the Maryland Insurance Commissioner] the
39 amount of the [State tax credit] SUBTRACTION MODIFICATION authorized under this

1 subsection that may be claimed by the business entity or any of its affiliates
2 [against] FOR PURPOSES OF the individual or corporate income tax, [insurance
3 premiums tax, or financial institution franchise tax that would otherwise be due] to
4 equal 31.5% of the amount of property tax imposed on the increase in assessment of
5 the real and personal property described in paragraph (4)(ii) of this subsection for
6 each of the first 12 taxable years for which the [credit] SUBTRACTION
7 MODIFICATION is allowed.

8 [(e) The same State tax credit cannot be applied more than once against
9 different taxes by the same taxpayer.]

10 [(f) If the State tax credit allowed under this section in any taxable year
11 exceeds the total tax otherwise payable by the business entity for that taxable year, a
12 business entity or its affiliates may apply the excess as a credit for succeeding taxable
13 years until the earlier of:

14 (1) the full amount of the excess is used; or

15 (2) the expiration of the 5th taxable year after the taxable year in which
16 the State tax credit is claimed.]

17 [(g) The Maryland Insurance Commissioner shall adopt regulations to provide
18 for the computation, carryover, and recapture of the State tax credit under § 6-116 of
19 the Insurance Article.]

20 [(h) The Department shall adopt regulations to provide for the computation,
21 carryover, and recapture of the State tax credit under § 8-217 of the Tax - General
22 Article.]

23 [(i) (E) The Comptroller shall adopt regulations to provide for the
24 computation[, carryover,] and recapture of the [State tax credit] SUBTRACTION
25 MODIFICATION under [§ 10-704.8] § 10-231 of the Tax - General Article.

26 [(j) (F) The lessor of real property eligible for property tax credits under this
27 section shall reduce by the amount of the property tax credits computed under this
28 section the amount of taxes for which the eligible business entity is contractually
29 liable under the lease agreement.

30 [(k) (G) The governing body of the county or municipal corporation shall
31 provide, by law, for:

32 (1) the specific requirements for eligibility for a tax credit authorized
33 under this section;

34 (2) any additional limitations on eligibility for the credit;

35 (3) the information to be supplied by the business entity to a county or
36 municipal corporation and the Comptroller to verify that the business entity is not
37 subject to subsection [(l)] (H) of this section; and

1 (4) any other provision appropriate to implement the credit.

2 [(l)] (H) All credits AND SUBTRACTION MODIFICATIONS claimed under this
3 section for a taxable year shall be recaptured if, during the 3 taxable years succeeding
4 the taxable year in which a credit was claimed:

5 (1) the employment level or square footage of a business entity at the
6 premises falls below the applicable thresholds required to qualify for the property tax
7 credit under subsection (c) of this section; or

8 (2) For the enhanced property tax credit, the employment level or square
9 footage of a business entity, together with its affiliates, at the premises falls below the
10 applicable thresholds required to qualify for the enhanced property tax credit under
11 subsection (d) of this section.

12 [(m)] (I) On October 1 of each year, each county and municipal corporation
13 that has granted tax credits under this section shall report to the Department, the
14 Department of Business and Economic Development, and the Comptroller:

15 (1) the amount of each credit granted for that year; and

16 (2) whether the business entity is in compliance with the requirements
17 for the tax credit.

18 [(n)] (J) (1) After a business entity has complied with all the requirements
19 provided in this section and in any applicable local law for a particular tax credit, the
20 business entity shall be entitled to claim the credits for the term provided in this
21 section.

22 (2) No abrogation of this law or law hereinafter enacted that eliminates
23 or reduces the tax credits available under this section shall apply to any business
24 entity or affiliate of a business entity that qualified for the tax credits before the
25 effective date of such law or abrogation.

26 **Article - Tax - General**

27 10-208.

28 (A-1) THE SUBTRACTION UNDER THIS SECTION INCLUDES THE SUBTRACTIONS
29 ALLOWED UNDER PART V OF THIS SUBTITLE.

30 10-218.

31 (b) An individual who elects to itemize deductions is allowed as a deduction
32 the sum of the individual's federal itemized deductions:

33 (1) limited and reduced as required under the Internal Revenue Code;
34 AND

1 [(2) further reduced by any amount deducted under § 170 of the Internal
2 Revenue Code for contributions of a preservation or conservation easement for which
3 a credit is claimed under § 10-723 of this title; and]

4 [(3)] (2) further reduced by the amount claimed as taxes on income paid
5 to a state or political subdivision of a state, after subtracting a pro rata portion of the
6 reduction to itemized deductions required under § 68 of the Internal Revenue Code.

7 PART V. ADDITIONAL ADJUSTMENTS TO DETERMINE MARYLAND TAXABLE INCOME.

8 10-226.

9 (b) (1) Any business entity that is located in an enterprise zone and
10 satisfies the requirements of Article 83A, § 5-404 of the Code may claim [a credit only
11 against the State income tax] A SUBTRACTION MODIFICATION for the wages specified
12 in subsections (c) and (d) of this section that are paid in the taxable year for which the
13 entity claims the [credit] SUBTRACTION MODIFICATION.

14 (2) A business entity that is located in a focus area and satisfies the
15 requirements of Article 83A, § 5-404 of the Code may claim a [credit only against the
16 State income tax] SUBTRACTION MODIFICATION for the wages specified in subsection
17 (e) of this section that are paid to a focus area employee in the taxable year for which
18 the entity claims the [credit] SUBTRACTION MODIFICATION.

19 [(3) An organization that is exempt from taxation under § 501(c)(3) or (4)
20 of the Internal Revenue Code may apply the credit under this section as a credit
21 against income tax due on unrelated business taxable income as provided under §§
22 10-304 and 10-812 of this title.]

23 (c) If a business entity does not claim an enhanced [tax credit] SUBTRACTION
24 MODIFICATION under subsection (e) of this section for a focus area employee, for the
25 taxable year in which a business entity satisfies the requirements of Article 83A, §
26 5-404 of the Code, a [credit] SUBTRACTION MODIFICATION is allowed that equals:

27 (1) up to \$3,000 of the wages paid to each qualified employee who:

28 (i) is an economically disadvantaged individual; and

29 (ii) is not hired to replace an individual whom the business entity
30 employed in that or any of the 3 preceding taxable years; and

31 (2) up to \$1,000 of the wages paid to each qualified employee who:

32 (i) is not an economically disadvantaged individual; and

33 (ii) is not hired to replace an individual whom the business entity
34 employed in that or any of the 3 preceding taxable years.

35 (d) (1) If a business entity does not claim an enhanced [tax credit]
36 SUBTRACTION MODIFICATION under subsection (e) of this section for a focus area

1 employee, for each taxable year after the taxable year described in subsection (c) of
2 this section, while the area is designated an enterprise zone, a [credit] SUBTRACTION
3 MODIFICATION is allowed that equals:

4 (i) up to \$3,000 of the wages paid to each qualified employee who:

- 5 1. is an economically disadvantaged individual;
- 6 2. became a qualified employee during the taxable year to
7 which the credit applies; and
- 8 3. is not hired to replace an individual whom the business
9 entity employed in that or any of the 3 preceding taxable years;

10 (ii) up to \$2,000 of the wages paid to each qualified employee who is
11 an economically disadvantaged individual, if the business entity received a credit
12 under subsection (c)(1) of this section for the qualified employee in the immediately
13 preceding taxable year; and

14 (iii) up to \$1,000 of the wages paid to each qualified employee who is
15 not hired to replace an individual whom the business entity employed in that or any
16 of the 3 preceding taxable years if the qualified employee:

- 17 1. is an economically disadvantaged individual for whom the
18 business entity received a credit under subsection (c)(1) of this section or item (i) of
19 this paragraph and a credit under item (ii) of this paragraph in the 2 immediately
20 preceding taxable years; or
- 21 2. is not an economically disadvantaged individual but
22 became a qualified employee during the taxable year to which the credit applies.

23 (2) A business entity that hires a qualified employee to replace another
24 qualified employee for whom the business entity received a [credit] SUBTRACTION
25 MODIFICATION under subsection (c)(1) of this section and paragraph (1)(ii) of this
26 subsection in the immediately preceding taxable year may treat the new qualified
27 employee as the replacement for the other qualified employee to determine any
28 [credit] SUBTRACTION MODIFICATION that may be available to the business entity
29 under paragraph (1)(ii) or (iii) of this subsection.

30 (e) (1) For the taxable year in which a business entity satisfies the
31 requirements of Article 83A, §§ 5-402(k) and 5-404 of the Code, a [credit]
32 SUBTRACTION MODIFICATION is allowed that equals:

33 (i) up to \$4,500 of the wages paid to each focus area employee who:

- 34 1. is an economically disadvantaged individual; and
- 35 2. is not hired to replace an individual whom the business
36 entity employed in that year or any of the 3 preceding taxable years; and

1 (ii) up to \$1,500 of the wages paid to each focus area employee who:
2 1. is not an economically disadvantaged individual; and
3 2. is not hired to replace an individual whom the business
4 entity employed in that year or any of the 3 preceding taxable years.

5 (2) For each taxable year after the taxable year described in paragraph
6 (1) of this subsection, while the area is designated a focus area, a [credit]
7 SUBTRACTION MODIFICATION is allowed that equals:

8 (i) up to \$4,500 of the wages paid to each focus area employee who:
9 1. is an economically disadvantaged individual;
10 2. became a focus area employee during the taxable year to
11 which the [credit] SUBTRACTION MODIFICATION applies; and
12 3. is not hired to replace an individual whom the business
13 entity employed in that year or any of the 3 preceding taxable years;

14 (ii) up to \$3,000 of the wages paid to each focus area employee who
15 is an economically disadvantaged individual, if the business entity received a [credit]
16 SUBTRACTION MODIFICATION under paragraph (1)(i) of this subsection for the focus
17 area employee in the immediately preceding taxable year; and

18 (iii) up to \$1,500 of the wages paid to each focus area employee who
19 is not hired to replace an individual whom the business entity employed in that year
20 or any of the 3 preceding taxable years if the focus area employee:

21 1. is an economically disadvantaged individual for whom the
22 business entity received a [credit] SUBTRACTION MODIFICATION under item (ii) of
23 this paragraph in the 2 immediately preceding taxable years and under:

24 A. paragraph (1)(i) of this subsection; or

25 B. item (i) of this paragraph; or

26 2. is not an economically disadvantaged individual but
27 became a focus area employee during the taxable year to which the [credit]
28 SUBTRACTION MODIFICATION applies.

29 (3) A business entity that hires a focus area employee to replace another
30 focus area employee for whom the business entity received a [credit] SUBTRACTION
31 MODIFICATION under paragraph (1)(i) of this subsection and paragraph (2)(ii) of this
32 subsection in the immediately preceding taxable year may treat the focus area
33 employee as the replacement for the other focus area employee to determine any
34 [credit] SUBTRACTION MODIFICATION that may be available to the business entity
35 under paragraph (2)(ii) or (iii) of this subsection.

1 [(f) If the credit allowed under this section in any taxable year exceeds the
2 State income tax for that taxable year, a business entity may apply the excess as a
3 credit against the State income tax for succeeding taxable years until the earlier of:

4 (1) the full amount of the excess is used; or

5 (2) the expiration of the 5th taxable year from the date on which the
6 business entity hired the qualified employee to whom the credit first applies.]

7 [(g) If a credit is claimed under this section, the claimant must make the
8 addition required in § 10-205, § 10-206, or § 10-306 of this title.]

9 10-227.

10 (b) This section [does not apply] APPLIES ONLY to:

11 (1) a cogenerator or electricity supplier that is subject to the public
12 service company franchise tax; or

13 (2) an electricity supplier that, before July 1, 1999, was [not] an electric
14 company as defined in § 1-101 of the Public Utility Companies Article as in effect on
15 June 30, 1999[, unless the electricity supplier] OR is an affiliate of such an electric
16 company.

17 (c) A cogenerator or electricity supplier may claim a [credit] SUBTRACTION
18 MODIFICATION against the State income tax in the amount of \$3 for each ton of
19 Maryland-mined coal that the cogenerator or electricity supplier purchased in the
20 taxable year.

21 [(d) (1) A cogenerator or electricity supplier may only apply the credit
22 against the State income tax for the taxable year in which the credit was earned.

23 (2) The amount of the credit may not exceed the State income tax for
24 that taxable year.]

25 10-228.

26 An individual or a corporation may claim a [credit against the income tax]
27 SUBTRACTION MODIFICATION for wages paid to qualified employees as provided
28 under Article 83A, § 5-1102 of the Code.

29 10-229.

30 AN INDIVIDUAL OR CORPORATION MAY CLAIM A SUBTRACTION MODIFICATION
31 FOR A CERTIFIED REHABILITATION AS PROVIDED UNDER ARTICLE 83B, § 5-801 OF
32 THE CODE.

1 10-230.

2 An individual or a corporation may claim a [credit against the State income
3 tax] SUBTRACTION MODIFICATION for neighborhood and community assistance
4 contributions as provided under Article 83B, § 4-704 of the Code.

5 10-231.

6 An individual or a corporation may claim a [State tax credit against the income
7 tax] SUBTRACTION MODIFICATION as provided under § 9-230 of the Tax - Property
8 Article.

9 10-232.

10 (a) Subject to the provisions of this section, an individual or a corporation may
11 claim a [credit against the State income tax] SUBTRACTION MODIFICATION for a
12 taxable year in the amount equal to 50% of the certified additional commercial
13 fertilizer costs necessary to convert agricultural production to a nutrient management
14 plan under Title 8, Subtitle 8 of the Agriculture Article.

15 (b) (1) The [credit] SUBTRACTION MODIFICATION allowed under this
16 section may only be claimed by an individual or a corporation for up to 3 consecutive
17 taxable years.

18 (2) The [credit] SUBTRACTION MODIFICATION allowed under this
19 section may not exceed \$4,500 in any taxable year.

20 [(3) (i) If the credit allowed under this section in any taxable year
21 exceeds the total tax otherwise payable by the individual or corporation for that
22 taxable year, the individual or corporation may apply the excess as a credit for
23 succeeding taxable years until the earlier of:

24 1. the full amount of the excess is used; or

25 2. the expiration of the 5th succeeding taxable year.

26 (ii) Any excess credit carried forward under this paragraph does not
27 apply to the credit limit specified in paragraph (2) of this subsection.]

28 (c) The [credit] SUBTRACTION MODIFICATION allowed under this section
29 may not be earned for any [credit] TAXABLE year beginning on or after January 1,
30 2009.

31 (d) (1) To qualify for the [credit] SUBTRACTION MODIFICATION under this
32 section, an individual or a corporation must receive a statement from the Department
33 of Agriculture certifying:

34 (i) that the individual or corporation has submitted a nutrient
35 management plan to the Department in accordance with Title 8, Subtitle 8 of the
36 Agriculture Article;

1 (ii) that the additional commercial fertilizer costs are necessary to
2 convert agricultural production to comply with a nutrient management plan under
3 Title 8, Subtitle 8 of the Agriculture Article; and

4 (iii) the amount of the [credit] SUBTRACTION MODIFICATION that
5 the individual or corporation is eligible to take for the taxable year.

6 (2) An individual or a corporation must file proof of certification by the
7 Department of Agriculture in a manner prescribed by the Comptroller.

8 (e) Subject to the provisions of this subsection, the State Department of
9 Agriculture shall adopt regulations necessary to carry out the provisions of this
10 section.

11 10-233.

12 AN INDIVIDUAL OR CORPORATION MAY CLAIM A SUBTRACTION MODIFICATION
13 FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE AS PROVIDED UNDER §
14 11-704 OF THE LABOR AND EMPLOYMENT ARTICLE.

15 10-234.

16 (a) An individual may claim a [credit against the State income tax]
17 SUBTRACTION MODIFICATION for a taxable year in the amount specified in
18 subsection (b) of this section for property tax paid in that taxable year for
19 owner-occupied, residential real property that is granted a property tax credit under
20 § 9-317(e), § 9-318(d), or § 9-326 of the Tax - Property Article.

21 (b) The [credit] SUBTRACTION MODIFICATION shall equal the amount of the
22 property tax credit granted for property tax paid under § 9-317(e), § 9-318(d), or §
23 9-326 of the Tax - Property Article.

24 [(c) If the credit allowed under this section in any taxable year exceeds the
25 State income tax for that taxable year, calculated before application of the credits
26 under this section and §§ 10-701 and 10-701.1 of this subtitle, but after application of
27 the other credits allowable under this subtitle, the excess of the credit shall be
28 refunded.]

29 10-235.

30 (A) IN THIS SECTION, "LONG-TERM CARE INSURANCE" HAS THE MEANING
31 STATED IN § 18-101 OF THE INSURANCE ARTICLE.

32 (B) (1) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS
33 SUBSECTION, AN EMPLOYER MAY CLAIM A SUBTRACTION MODIFICATION IN AN
34 AMOUNT EQUAL TO 5% OF THE COSTS INCURRED BY THE EMPLOYER DURING THE
35 TAXABLE YEAR TO PROVIDE LONG-TERM CARE INSURANCE AS PART OF AN
36 EMPLOYEE BENEFIT PACKAGE.

1 (2) THE SUBTRACTION MODIFICATION ALLOWED UNDER THIS SECTION
2 MAY NOT EXCEED THE LESSER OF:

3 (I) \$5,000; OR

4 (II) \$100 FOR EACH EMPLOYEE IN THE STATE COVERED BY
5 LONG-TERM CARE INSURANCE PROVIDED UNDER THE EMPLOYEE BENEFIT
6 PACKAGE.

7 10-236.

8 An individual or corporation may claim a [credit against the State income tax]
9 SUBTRACTION MODIFICATION for wages paid to each student under an approved paid
10 work-based learning program as provided under § 21-501 of the Education Article.

11 10-237.

12 An individual or corporation may claim a [credit against the State income tax]
13 SUBTRACTION MODIFICATION for One Maryland project costs and start-up costs as
14 provided under Article 83A, § 5-1501(b) and (c) of the Code.

15 10-238.

16 AN INDIVIDUAL OR CORPORATION MAY CLAIM A SUBTRACTION MODIFICATION
17 FOR THE COST OF PROVIDING COMMUTER BENEFITS TO THE BUSINESS ENTITY'S
18 EMPLOYEES AS PROVIDED UNDER § 2-901 OF THE ENVIRONMENT ARTICLE.

19 10-239.

20 (a) An individual who is a classroom teacher holding a standard professional
21 certificate or an advanced professional certificate may claim a [credit against the
22 State income tax] SUBTRACTION MODIFICATION for up to \$1,500 of tuition paid by
23 the individual during the taxable year for graduate level courses required to maintain
24 certification if the individual:

25 (1) successfully completes the courses with a grade of B or better;

26 (2) is employed by a county board of education;

27 (3) teaches in a public school and receives a satisfactory performance
28 evaluation for that teaching; and

29 (4) has not been reimbursed by the county for the tuition paid.

30 (b) [(1)] If a county partially reimburses an individual for tuition paid, the
31 individual may claim a [tax credit] SUBTRACTION MODIFICATION allowed under this
32 section for the balance of the tuition not paid by the county.

33 [(2)] The credit allowed under this section may not exceed the State
34 income tax for that taxable year, calculated before the application of the credits

1 allowed under this section and §§ 10-701 and 10-701.1 of this subtitle but after the
2 application of the other credits allowable under this subtitle.

3 (3) The unused amount of the credit for any taxable year may not be
4 carried over to any other taxable year.]

5 10-240.

6 (a) In this section, "eligible long-term care premiums" means eligible
7 long-term care premiums within the meaning of § 213(d)(10) of the Internal Revenue
8 Code for a long-term care insurance contract covering an individual who is a
9 Maryland resident.

10 (b) An individual may claim a [credit against the State income tax]
11 SUBTRACTION MODIFICATION in an amount equal to 100% of the eligible long-term
12 care premiums paid by the individual during the taxable year for long-term care
13 insurance covering the individual or the individual's spouse, parent, stepparent,
14 child, or stepchild.

15 (c) The [credit] SUBTRACTION MODIFICATION allowed under this section:

16 (1) may not exceed \$500 for each insured covered by long-term care
17 insurance for which the individual pays the premiums;

18 (2) may not be claimed by more than one taxpayer with respect to the
19 same insured individual; and

20 (3) may not be claimed with respect to an insured individual if:

21 (i) the insured individual was covered by long-term care insurance
22 at any time before July 1, 2000; or

23 (ii) the [credit] SUBTRACTION MODIFICATION has been claimed
24 with respect to that insured individual by any taxpayer for any prior taxable year.

25 [(d) (1) The total amount of the credit allowed under this section for any
26 taxable year may not exceed the State income tax for that taxable year, calculated
27 before application of the credits under this section and §§ 10-701 and 10-701.1 of this
28 subtitle, but after application of the other credits allowable under this subtitle.

29 (2) The unused amount of the credit for any taxable year may not be
30 carried over to any other taxable year.]

31 [(e) (D) The [credit] SUBTRACTION MODIFICATION allowed under this
32 section does not affect the treatment under this title of any deduction or exclusion
33 allowed for federal income tax purposes for the eligible long-term care premiums paid
34 by the individual.

35 [(f) (E) On or before December 1, 2005 and each December 1 thereafter, the
36 Comptroller shall report to the Governor and, subject to § 2-1246 of the State

1 Government Article, to the General Assembly, regarding the [credit] SUBTRACTION
2 MODIFICATION allowed under this section, including:

3 (1) the number of individuals who have claimed the [credit]
4 SUBTRACTION MODIFICATION, the amount allowed as [credits] A SUBTRACTION
5 MODIFICATION, and the additional number of individuals covered by long-term care
6 insurance as a result of the [credit] SUBTRACTION MODIFICATION; and

7 (2) the savings under the State's Medical Assistance Program as a result
8 of additional individuals being covered by long-term care insurance as a result of the
9 [credit] SUBTRACTION MODIFICATION.

10 10-241.

11 (b) An individual or a corporation may claim a [credit against the State
12 income tax] SUBTRACTION MODIFICATION for a taxable year as provided in this
13 section for the costs of solar water heating property or photovoltaic property placed in
14 service during the taxable year.

15 (c) (1) Subject to the limitations under paragraph (2) of this subsection, the
16 [credit] SUBTRACTION MODIFICATION allowed under this section includes 15% of the
17 total installed cost of photovoltaic property or solar water heating property.

18 (2) The [credit] SUBTRACTION MODIFICATION allowed under this
19 subsection may not exceed:

20 (i) \$2,000 for each system for photovoltaic property; and

21 (ii) \$1,000 for each system for solar water heating property.

22 [(d) (1) The total amount of the credit allowed under this section for any
23 taxable year may not exceed the State income tax for that taxable year, calculated
24 before application of the credits under this section and §§ 10-701 and 10-701.1 of this
25 subtitle, but after application of the other credits allowable under this subtitle.

26 (2) The unused amount of the credit for any taxable year may not be
27 carried over to any other taxable year.]

28 [(e) (D) Except as otherwise provided in this title, for purposes of
29 determining Maryland taxable income, the basis of property with respect to which the
30 [credit] SUBTRACTION MODIFICATION under this section is allowed shall be its basis
31 for federal income tax purposes.

32 [(f) (E) The [credit] SUBTRACTION MODIFICATION under this section may
33 not be claimed for property placed in service:

34 (1) before July 1, 2000; or

35 (2) after December 31, 2004.

1 10-242.

2 (b) (1) Except as provided in paragraph (2) of this subsection, an individual
3 or corporation may claim a [credit] SUBTRACTION MODIFICATION against the State
4 income tax for a taxable year in an amount equal to 0.85 cents for each kilowatt hour
5 of electricity:

6 (i) produced by the individual or corporation from qualified energy
7 resources at a qualified Maryland facility during the 10-year period beginning on:

8 1. the date the facility was originally placed in service; or

9 2. in the case of a facility that produces electricity from a
10 qualified energy resource that is co-fired with coal, the date of the initial co-firing;
11 and

12 (ii) sold by the individual or corporation to a person other than a
13 related person, within the meaning of § 45 of the Internal Revenue Code, during the
14 taxable year.

15 (2) If the electricity is produced from a qualified energy resource that is
16 co-fired at a facility that produces electricity from coal, the [credit] SUBTRACTION
17 MODIFICATION is 0.5 cents for each kilowatt hour of electricity produced from the
18 qualified energy resource instead of 0.85 cents.

19 [(c) If the credit allowed under this section exceeds the State income tax, any
20 unused credit may be carried forward and applied for succeeding taxable years until
21 the earlier of:

22 (1) the full amount of the credit is used; or

23 (2) the expiration of the 10th taxable year after the taxable year in
24 which the credit arose.]

25 10-243.

26 (b) Subject to the limitations of this section, an individual or a corporation
27 may claim [credits] A SUBTRACTION MODIFICATION against the State income tax in
28 an amount equal to:

29 (1) 3% of the Maryland qualified research and development expenses,
30 not exceeding the Maryland base amount for the individual or corporation, paid or
31 incurred by the individual or corporation during the taxable year; and

32 (2) 10% of the amount by which the Maryland qualified research and
33 development expenses paid or incurred by the individual or corporation during the
34 taxable year exceed the Maryland base amount for the individual or corporation.

35 [(c) (1) By September 15 of the calendar year following the end of the taxable
36 year in which the Maryland qualified research and development expenses were

1 incurred, an individual or corporation shall submit an application to the Department
2 for the credits allowed under subsection (b)(1) and (2) of this section.

3 (2) (i) Except as provided under paragraph (4) of this subsection, the
4 total amount of credits approved by the Department under subsection (b)(1) of this
5 section may not exceed \$3,000,000 for any calendar year.

6 (ii) Subject to paragraph (4) of this subsection, if the total amount
7 of credits applied for by all individuals and corporations under subsection (b)(1) of this
8 section exceeds the maximum specified under subparagraph (i) of this paragraph, the
9 Department shall approve a credit under subsection (b)(1) of this section for each
10 applicant in an amount equal to the product of multiplying the credit applied for by
11 the applicant times a fraction:

12 1. the numerator of which is the maximum specified under
13 subparagraph (i) of this paragraph; and

14 2. the denominator of which is the total of all credits applied
15 for by all applicants under subsection (b)(1) of this section in the calendar year.

16 (3) (i) Except as provided in paragraph (4) of this subsection, the total
17 amount of credits approved by the Department under subsection (b)(2) of this section
18 may not exceed \$3,000,000 for any calendar year.

19 (ii) Subject to paragraph (4) of this subsection, if the total amount
20 of credits applied for by all individuals and corporations under subsection (b)(2) of this
21 section exceeds the maximum specified under subparagraph (i) of this paragraph, the
22 Department shall approve a credit under subsection (b)(2) of this section for each
23 applicant in an amount equal to the product of multiplying the credit applied for by
24 the applicant times a fraction:

25 1. the numerator of which is the maximum specified under
26 subparagraph (i) of this paragraph; and

27 2. the denominator of which is the total of all credits applied
28 for by all applicants under subsection (b)(2) of this section in the calendar year.

29 (4) (i) For any calendar year, if the maximum specified under
30 paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by
31 all individuals and corporations under subsection (b)(1) of this section, the maximum
32 specified under paragraph (3)(i) of this subsection shall be increased for that calendar
33 year by an amount equal to the amount by which the maximum specified under
34 paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by
35 all individuals and corporations under subsection (b)(1) of this section.

36 (ii) For any calendar year, if the maximum specified under
37 paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by
38 all individuals and corporations under subsection (b)(2) of this section, the maximum
39 specified under paragraph (2)(i) of this subsection shall be increased for that calendar
40 year by an amount equal to the amount by which the maximum specified under

1 paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by
2 all individuals and corporations under subsection (b)(2) of this section.

3 (5) By December 15 of the calendar year following the end of the taxable
4 year in which the Maryland qualified research and development expenses were
5 incurred, the Department shall certify to the individual or corporation the amount of
6 the research and development tax credits approved by the Department for the
7 individual or corporation under subsection (b)(1) and (2) of this section.

8 (6) To claim the approved credits allowed under this section, an
9 individual or corporation shall:

10 (i) file an amended income tax return for the taxable year in which
11 the Maryland qualified research and development expense was incurred; and

12 (ii) attach a copy of the Department's certification of the approved
13 credit amount to the amended income tax return.]

14 [(d) If the credit allowed under this section in any taxable year exceeds the
15 State income tax for that taxable year, an individual or corporation may apply the
16 excess as a credit against the State income tax for succeeding taxable years until the
17 earlier of:

18 (1) the full amount of the excess is used; or

19 (2) the expiration of the 15th taxable year after the taxable year in
20 which the Maryland qualified research and development expense was incurred.]

21 [(e) (1) In determining the amount of the credit under this section:

22 (i) all members of the same controlled group of corporations, as
23 defined under § 41(f) of the Internal Revenue Code, shall be treated as a single
24 taxpayer; and

25 (ii) the credit allowable by this section to each member shall be its
26 proportionate shares of the qualified research expenses giving rise to the credit.

27 (2) The Comptroller shall adopt regulations providing for:

28 (i) determination of the amount of the credit under this section in
29 the case of trades or businesses, whether or not incorporated, that are under common
30 control;

31 (ii) pass-through and allocation of the credit in the case of estates
32 and trusts, partnerships, unincorporated trades or businesses, and S corporations;

33 (iii) adjustments in the case of acquisitions and dispositions
34 described in § 41(f)(3) of the Internal Revenue Code; and

35 (iv) determination of the credit in the case of short taxable years.

1 (3) The regulations adopted under paragraph (2) of this subsection shall
2 be based on principles similar to the principles applicable under § 41 of the Internal
3 Revenue Code and regulations adopted thereunder.]

4 [(f)] (C) (1) The Department of Business and Economic Development and
5 the Comptroller jointly shall adopt regulations to prescribe standards for determining
6 when research or development is considered conducted in the State for purposes of
7 determining the [credit] SUBTRACTION MODIFICATION under this section.

8 (2) In adopting regulations under this subsection, the Department and
9 the Comptroller may consider:

10 (i) the location where services are performed;

11 (ii) the residence or business location of the person or persons
12 performing services;

13 (iii) the location where supplies used in research and development
14 are consumed; and

15 (iv) any other factors that the Department determines are relevant
16 for the determination.

17 (3) THE SUBTRACTION MODIFICATION UNDER THIS SECTION DOES NOT
18 APPLY TO ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2004.

19 10-244.

20 (a) (7) "[Credit] BENEFIT allowance year" means the later of:

21 (i) the taxable year during which:

22 1. the property, construction, completion, or rehabilitation on
23 which the credit allowed under this section is based is originally placed in service; or

24 2. a fuel cell, wind turbine, or photovoltaic module
25 constitutes a qualifying alternate energy source and is fully operational; or

26 (ii) the earliest taxable year for which the credit may be claimed
27 under the initial [credit] BENEFIT certificate issued under subsection (k) of this
28 section.

29 (b) (1) An individual or a corporation may claim a [credit against the State
30 income tax] SUBTRACTION MODIFICATION as provided under this section for green
31 buildings and green building components.

32 [(2) If the credit allowed under this section exceeds the State income tax,
33 any unused credit may be carried forward and applied for succeeding taxable years
34 until the earlier of:

35 (i) the full amount of the credit is used; or

1 (ii) the expiration of the 10th year after the taxable year for which
2 the credit was allowed.]

3 [(3)] (2) For each of the [credits] AMOUNTS ALLOWED under
4 subsections (c) through (h) of this section, the [credit] SUBTRACTION MODIFICATION
5 may not be allowed for any taxable year unless:

6 (i) the taxpayer has obtained and filed an initial [credit] BENEFIT
7 certificate and an eligibility certificate issued under subsection (k) of this section;

8 (ii) a certificate of occupancy for the building has been issued; and

9 (iii) the property with respect to which the [credit] SUBTRACTION
10 MODIFICATION is claimed is in service during the taxable year.

11 (4) The total amount allowed in the aggregate for [all credits] THE
12 SUBTRACTION MODIFICATION under this section may not exceed the maximum set
13 forth in the initial [credit] BENEFIT certificate obtained under subsection (k) of this
14 section.

15 (5) In determining the amount of the [credits] SUBTRACTION
16 MODIFICATION under this section, a cost paid or incurred may not be the basis for
17 more than one [credit] SUBTRACTION MODIFICATION.

18 (c) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
19 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in an amount
20 equal to 8% of the allowable costs paid or incurred by the owner or tenant for the
21 construction of a green whole building or the rehabilitation of a building that is not a
22 green whole building to be a green whole building.

23 (2) The allowable costs used to determine the [credit] SUBTRACTION
24 MODIFICATION amount allowed under this subsection for a green whole building may
25 not exceed in the aggregate:

26 (i) \$120 per square foot for that portion of the building that
27 comprises the base building; and

28 (ii) \$60 per square foot for that portion of the building that
29 comprises the tenant space.

30 (d) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
31 owner may claim a credit in an amount equal to 6% of the allowable costs paid or
32 incurred by the owner for the construction of a green base building or the
33 rehabilitation of a building that is not a green base building to be a green base
34 building.

35 (2) The allowable costs used to determine the [credit] SUBTRACTION
36 MODIFICATION amount allowed under this subsection for a green base building may
37 not exceed, in the aggregate, \$120 per square foot.

1 (e) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
2 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in an amount
3 equal to 6% of the allowable costs for tenant improvements paid or incurred by the
4 owner or tenant in the construction or completion of green tenant space or the
5 rehabilitation of tenant space that is not green tenant space to be green tenant space.

6 (2) (i) The allowable costs used to determine the [credit]
7 SUBTRACTION MODIFICATION amount allowed under this subsection for green tenant
8 space may not exceed, in the aggregate, \$60 per square foot.

9 (ii) If an owner and tenant both incur allowable costs for tenant
10 improvements under this subsection and the costs exceed \$60 per square foot in the
11 aggregate, the owner has priority as to costs constituting the basis for the green
12 tenant space [credit] SUBTRACTION MODIFICATION under this subsection.

13 (3) The [credit] SUBTRACTION MODIFICATION under this subsection for
14 green tenant space may not be claimed by an owner of a building that occupies fewer
15 than 10,000 square feet of the building.

16 (4) The [credit] SUBTRACTION MODIFICATION under this subsection for
17 green tenant space may not be claimed by a tenant that occupies fewer than 5,000
18 square feet.

19 (f) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
20 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in the amount
21 determined under this subsection for the installation of a fuel cell that is a qualifying
22 alternate energy source and is installed to serve a green whole building, green base
23 building, or green tenant space.

24 (2) The amount of the [credit] SUBTRACTION MODIFICATION allowed
25 under this subsection is 30% of the sum of the capitalized costs paid or incurred by an
26 owner or tenant with respect to each fuel cell installed, including the cost of the
27 foundation or platform and the labor costs associated with installation.

28 (3) The costs used to determine the [credit] SUBTRACTION
29 MODIFICATION amount allowed under this subsection for installation of a fuel cell:

30 (i) may not exceed \$1,000 per kilowatt of installed DC rated
31 capacity of the fuel cell; and

32 (ii) shall be reduced by the amount of any federal, State, or local
33 grant:

34 1. received by the taxpayer and used for the purchase or
35 installation of the fuel cell; and

36 2. not included in the federal gross income of the taxpayer.

37 (g) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
38 owner or tenant may claim a [credit] BENEFIT in the amount determined under this

1 subsection for the installation of photovoltaic modules that constitute a qualifying
2 alternate energy source and are installed to serve a green whole building, green base
3 building, or green tenant space.

4 (2) The amount of the [credit] SUBTRACTION MODIFICATION allowed
5 under this subsection is:

6 (i) 20% of the incremental cost paid or incurred by an owner or
7 tenant for building-integrated photovoltaic modules; and

8 (ii) 25% of the cost of nonbuilding-integrated photovoltaic modules,
9 including the cost of the foundation or platform and the labor costs associated with
10 installation.

11 (3) The costs used to determine the [credit] SUBTRACTION
12 MODIFICATION amount allowed under this subsection for installation of photovoltaic
13 modules:

14 (i) may not exceed the product obtained by multiplying \$3 times
15 the number of watts included in the DC rated capacity of the photovoltaic modules;
16 and

17 (ii) shall be reduced by the amount of any federal, State, or local
18 grant:

19 1. received by the taxpayer and used for the purchase or
20 installation of the photovoltaic equipment; and

21 2. not included in the federal gross income of the taxpayer.

22 (4) A [credit] SUBTRACTION MODIFICATION may not be claimed under
23 this subsection for the installation of photovoltaic modules if the [credit under §
24 10-719] SUBTRACTION MODIFICATION UNDER § 10-241 of this subtitle is claimed
25 with respect to the photovoltaic modules.

26 (h) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
27 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in the amount
28 determined under paragraph (2) of this subsection for the installation of a wind
29 turbine that is a qualifying alternate energy source and is installed to serve a green
30 whole building, green base building, or green tenant space.

31 (2) The amount of the [credit] SUBTRACTION MODIFICATION allowed
32 under this subsection is 25% of the sum of the capitalized costs paid or incurred by an
33 owner or tenant with respect to each wind turbine installed, including the cost of the
34 foundation or platform and the labor costs associated with installation.

35 (i) (1) By regulation, the Administration shall adopt standards for a
36 building to qualify as a green base building eligible for the tax [credits] BENEFITS
37 under this section that are consistent with the criteria for green base buildings set
38 forth by the United States Green Building Council or other similar criteria.

1 (2) The regulations adopted under this subsection shall provide that the
 2 energy use shall be no more than 65% for new construction of a base building, or 75%
 3 in the case of rehabilitation of a base building, of the energy use attributable to a
 4 reference building which meets the requirements of applicable energy efficiency
 5 standards.

6 (j) (1) By regulation, the Administration shall adopt standards for tenant
 7 space to qualify as green tenant space eligible for the tax [credits] BENEFITS under
 8 this section that are consistent with the criteria for green tenant space set forth by
 9 the United States Green Building Council or other similar criteria.

10 (2) The regulations adopted under this subsection shall provide that the
 11 energy use shall be no more than 65% for new construction, or 75% in the case of
 12 rehabilitation, of the energy use attributable to a reference building which meets the
 13 requirements of applicable energy efficiency standards.

14 (k) (1) (i) On application by a taxpayer, the Administration shall issue an
 15 initial [credit] BENEFIT certificate if the taxpayer has made a showing that the
 16 taxpayer is likely within a reasonable time to place in service property for which a
 17 credit under this section would be allowed.

18 (ii) The initial [credit] BENEFIT certificate issued under this
 19 paragraph:

20 1. shall state the earliest taxable year for which the [credit]
 21 SUBTRACTION MODIFICATION may be claimed and an expiration date; and

22 2. shall apply only to property placed in service on or before
 23 the expiration date.

24 (iii) To avoid unwarranted hardship, the Administration at its
 25 discretion may extend the expiration date stated under an initial [credit] BENEFIT
 26 certificate.

27 (iv) The initial [credit] BENEFIT certificate shall state the
 28 maximum amount of [credit] SUBTRACTION MODIFICATION allowable in the
 29 aggregate for all [credits] AMOUNTS allowed under this section.

30 (v) The Administration may not issue initial [credit] BENEFIT
 31 certificates, in the aggregate, for more than \$25,000,000 worth of [credits]
 32 SUBTRACTION MODIFICATION.

33 (vi) Except as provided in subparagraph (vii) of this paragraph,
 34 initial [credit] BENEFIT certificates shall be limited in their applicability, as follows:

35 [Credits] SUBTRACTION MODIFICATIONS in the
 36 aggregate may not be allowed for more than:

37 \$1 million
 38 \$2 million
 39 \$3 million

With respect to taxable
 years beginning:
 2003
 2004
 2005

1	\$4 million	2006
2	\$5 million	2007
3	\$4 million	2008
4	\$3 million	2009
5	\$2 million	2010
6	\$1 million	2011

7 (vii) As of the end of a calendar year, if certificates for [credit]
 8 SUBTRACTION MODIFICATION amounts totaling less than the amount permitted with
 9 respect to taxable years beginning in that calendar year have been issued, the
 10 maximum amount that may be allowed for taxable years beginning in the subsequent
 11 calendar year shall be increased by the amount of the preceding year's shortfall.

12 (viii) The Administration may not issue an initial [credit] BENEFIT
 13 certificate after December 31, 2011.

14 (ix) On January 1, 2004, and each year thereafter, the
 15 Administration shall provide to the Comptroller a list of all taxpayers in the prior
 16 taxable year that have been issued an initial [credit] BENEFIT certificate and shall
 17 specify for each taxpayer the earliest taxable year for which the [credit]
 18 SUBTRACTION MODIFICATION may be claimed and the maximum amount of the
 19 [credit] SUBTRACTION MODIFICATION allowable in the aggregate for all [credits]
 20 AMOUNTS allowed under this section.

21 (2) (i) For each taxable year for which a taxpayer claims a [credit]
 22 SUBTRACTION MODIFICATION under this section with respect to a green whole
 23 building, green base building, green tenant space, fuel cell, photovoltaic module, or
 24 wind turbine, the taxpayer shall obtain an eligibility certificate from an architect or
 25 professional engineer licensed to practice in this State.

26 (ii) An eligibility certificate issued under this paragraph shall
 27 consist of a certification, under the seal of the architect or engineer, that the property
 28 that is the basis for the [credit] SUBTRACTION MODIFICATION that is claimed is in
 29 service and that:

30 1. the building, base building, or tenant space with respect to
 31 which the [credit] SUBTRACTION MODIFICATION is claimed is a green whole
 32 building, green base building, or green tenant space; and

33 2. any fuel cell, photovoltaic module, or wind turbine with
 34 respect to which the [credit] SUBTRACTION MODIFICATION is claimed constitutes a
 35 qualifying alternate energy source and is fully operational.

36 (iii) The certification under subparagraph (ii) of this paragraph:

37 1. shall be made in accordance with the regulations adopted
 38 by the Administration under this section specifying the standards and guidelines for
 39 each credit under this section; and

1 10-245.

2 (a) (1) An individual may claim a [credit against the State income tax]
3 SUBTRACTION MODIFICATION as provided in this section for an easement conveyed to
4 the Maryland Environmental Trust or the Maryland Agricultural Land Preservation
5 Foundation for the purpose of preserving open space, natural resources, agriculture,
6 forest land, watersheds, significant ecosystems, viewsheds, or historic properties, if:

7 (i) the easement is perpetual; and

8 (ii) the easement is accepted and approved by the Board of Public
9 Works.

10 (2) Subject to subsection (c)(2) of this section, the [credit] SUBTRACTION
11 MODIFICATION under this section shall be allowed for the taxable year in which the
12 donation is approved by the Board of Public Works.

13 (b) (1) Except as otherwise provided in this section, the amount of the
14 [credit] SUBTRACTION MODIFICATION allowed under this section is the amount by
15 which the fair market value of the property before the conveyance of the easement
16 exceeds the fair market value of the property after the conveyance of the easement.

17 (2) The fair market value of the property before and after the conveyance
18 of the easement shall be substantiated by an appraisal prepared by a certified real
19 estate appraiser, as defined under § 16-101 of the Business Occupations and
20 Professions Article.

21 (3) The amount of the [credit] SUBTRACTION MODIFICATION shall be
22 reduced by the amount of any payment received for the easement.

23 (c) (1) For any taxable year, the [credit] SUBTRACTION MODIFICATION
24 allowed under this section may not exceed [the lesser of:

25 (i) the State income tax for that taxable year; or

26 (ii)] \$5,000.

27 (2) If the [credit] SUBTRACTION MODIFICATION otherwise allowable
28 under subsection (b) of this section exceeds the limit under paragraph (1) of this
29 subsection, an individual may apply the excess as a [credit against the State income
30 tax] SUBTRACTION MODIFICATION for succeeding taxable years until the earlier of:

31 (i) the full amount of the excess is used; or

32 (ii) the expiration of the 15th taxable year after the taxable year in
33 which the donation was approved by the Board of Public Works.

34 (3) For each taxable year, the amount carried forward to the taxable year
35 under paragraph (2) of this subsection may not exceed the limit under paragraph (1)
36 of this subsection.

1 (d) The [credit] SUBTRACTION MODIFICATION under this section may not be
2 claimed for a required dedication of open space for the purpose of fulfilling density
3 requirements to obtain a subdivision or building permit.

4 10-246.

5 (a) In this section, "aquaculture oyster float" means a device that is:

6 (1) purchased new;

7 (2) specifically designed for the purpose of growing oysters at or under
8 an individual homeowner's pier; and

9 (3) constructed to be fully buoyant and facilitate the growth of oysters for
10 the width of the pier.

11 (b) Subject to the limitations of this section, an individual may claim a [credit
12 against the State income tax] SUBTRACTION MODIFICATION in an amount equal to
13 100% of the purchase price of aquaculture oyster floats purchased during the taxable
14 year.

15 (c) [(1)] For any taxable year, the [credit] SUBTRACTION MODIFICATION
16 allowed under this section may not exceed [the lesser of:

17 (i)] \$500[; or

18 (ii) the State income tax imposed for the taxable year calculated
19 before the application of the credits allowed under this section and under §§ 10-701
20 and 10-701.1 of this subtitle but after the application of any other credit allowed
21 under this subtitle].

22 [(2)] The unused amount of the credit may not be carried over to any other
23 taxable year.]

24 10-306.

25 (B) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE
26 ADDITIONS REQUIRED FOR AN INDIVIDUAL UNDER:

27 (1) § 10-205(C) OF THIS TITLE (REFORESTATION AND TIMBER STAND
28 MODIFICATION);

29 (2) § 10-205(E) OF THIS TITLE (NET OPERATING LOSS MODIFICATION);
30 AND

31 (3) § 10-205(G) OF THIS TITLE (UNLICENSED CHILD CARE FACILITY
32 OPERATING EXPENSES).

1 10-308.

2 (A-1) THE SUBTRACTION UNDER THIS SECTION INCLUDES THE SUBTRACTIONS
3 ALLOWED UNDER SUBTITLE 2, PART V OF THIS TITLE.

4 10-809.

5 If an individual is not required to file an income tax return under § 10-805, [§
6 10-806] § 10-806, or § 10-813 of this subtitle, the individual:

7 (1) is not liable for income tax; and

8 (2) may file an income tax return to claim a refund of the income tax
9 withheld or estimated income tax paid or a refund under § 10-704[,] OR § 10-707[, or
10 § 10-714] of this title.

11 10-812.

12 [(a)] A corporation exempt from income tax under § 10-104 of this title shall file
13 an income tax return if the corporation:

14 (1) has unrelated business taxable income, as defined under § 512 of the
15 Internal Revenue Code;

16 (2) is exempt from taxation under § 501(c)(2) of the Internal Revenue
17 Code; or

18 (3) is an S corporation that is incorporated or does business in the State.

19 [(b)] An organization that is exempt from taxation under § 501(c)(3) or (4) of the
20 Internal Revenue Code may file an income tax return to claim a refund under §
21 10-714 of this title.]

22 SECTION 7. AND BE IT FURTHER ENACTED, That, for any tax credit that is
23 converted to an income tax subtraction modification under this Act, this Act does not
24 affect any tax credits claimed on or after July 1, 2003, if the person claiming the
25 credits qualified for the credits before July 1, 2003.

26 SECTION 8. AND BE IT FURTHER ENACTED, That, except as otherwise
27 provided in Section 7 of this Act, this Act shall take effect July 1, 2003, and shall be
28 applicable to all taxable years beginning after December 31, 2002.