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By: **Senators Jones, Britt, Currie, Exum, Gladden, Grosfeld, Hogan, Hughes,**
    Kasemeyer, Kelley, Kramer, Lawlah, McFadden, Munson, and Ruben
Introduced and read first time: January 26, 2005
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2   **Pilot Program for the Long-Term Employment of Qualified Ex-Felons**

3 FOR the purpose of creating a Pilot Program for the Long-Term Employment of
4   Qualified Ex-Felons; requiring the Department of Labor, Licensing, and
5   Regulation to establish the pilot program in consultation with the Governor's
6   Workforce Investment Board; requiring the Department to purchase certain
7   bonds for a certain number of qualified ex-felons each year and to provide
8   certain bonds to certain one-stop career centers; requiring that the pilot
9   program be implemented in a certain number of workforce investment areas;
10   requiring a one-stop center that participates in the pilot program to work with
11   certain entities to encourage referral and participation of qualified ex-felons, to
12   provide certain outreach and education, and to develop a certain evaluation
13   process; requiring a one-stop center to apply to the Department for designation
14   as a pilot program location; requiring the Department in consultation with the
15   Governor's Workforce Investment Board to designate certain one-stop centers
16   as pilot program locations and to consider certain information; allowing a credit
17   against the State income tax for certain wages paid by certain business entities
18   with respect to certain ex-felon employees; providing for the calculation and use
19   of the credit; requiring a certain addition modification if a certain credit is
20   claimed; requiring a certain certification prior to claiming the credit; prohibiting
21   an employer from claiming the credit under certain circumstances; providing for
22   the administration of the tax credits; requiring the Department of Labor
23   Licensing, and Regulation to adopt certain regulations; defining certain terms;
24   providing for the application of this Act; providing for the termination of certain
25   provisions of this Act; and generally relating to the creation of a Pilot Program
26   for the Long-Term Employment of Qualified Ex-Felons.

27 BY adding to
28   Article - Labor and Employment
29   Section 11-701 through 11-705 to be under the new subtitle "Subtitle 7. Pilot
30   Program for the Long-Term Employment of Qualified Ex-Felons"
31   Annotated Code of Maryland
32   (1999 Replacement Volume and 2004 Supplement)

1 BY adding to
2   Article - Tax - General
3   Section 10-704.10
4   Annotated Code of Maryland
5   (2004 Replacement Volume)

6 BY repealing
7   Article - Tax - General
8   Section 10-205(b) and 10-306(b)(1)
9   Annotated Code of Maryland
10   (2004 Replacement Volume)

11 BY adding to
12   Article - Tax - General
13   Section 10-205(b) and 10-306(b)(1)
14   Annotated Code of Maryland
15   (2004 Replacement Volume)

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

18   **Article - Labor and Employment**

19   SUBTITLE 7. PILOT PROGRAM FOR THE LONG-TERM EMPLOYMENT OF QUALIFIED
20   EX-FELONS.

21 11-701.

22   (A)   IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24   (B)   "BOARD" MEANS THE GOVERNOR'S WORKFORCE INVESTMENT BOARD
25 ESTABLISHED BY THE GOVERNOR UNDER SUBTITLE 5 OF THIS TITLE.

26   (C)   "BUSINESS ENTITY" MEANS:

27   (1)   A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN
28 MARYLAND; OR

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

31   (D)   "FIDELITY BOND" MEANS A BOND PROVIDED TO AN EMPLOYER FOR THE
32 BONDING OF EX-OFFENDERS PROVIDED THROUGH THE FEDERAL BONDING
33 PROGRAM OR OTHER SIMILAR PROGRAM APPROVED BY THE UNITED STATES
34 DEPARTMENT OF LABOR.

1   (E)   "ONE-STOP CENTER" MEANS AN ENTITY DESIGNATED WITHIN A
2 WORKFORCE INVESTMENT AREA THAT PROVIDES EMPLOYMENT TRAINING AND
3 SERVICES UNDER SUBTITLE 5 OF THIS TITLE.

4   (F)   "PILOT PROGRAM" MEANS THE PILOT PROGRAM FOR LONG-TERM
5 EMPLOYMENT OF QUALIFIED EX-FELONS ESTABLISHED UNDER THIS SUBTITLE.

6   (G)   (1)   "QUALIFIED EX-FELON EMPLOYEE" MEANS A QUALIFIED EX-FELON,
7 WITHIN THE MEANING OF § 51(D)(4) OF THE INTERNAL REVENUE CODE, WHO IS
8 EMPLOYED BY A BUSINESS ENTITY THROUGH THE PILOT PROGRAM UNDER THIS
9 SUBTITLE.

10   (2)   "QUALIFIED EX-FELON EMPLOYEE" DOES NOT INCLUDE AN
11 INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY OF THE RELATIONSHIPS
12 SPECIFIED IN § 152(A)(1) THROUGH (8) OF THE INTERNAL REVENUE CODE TO, A
13 PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE
14 OWNERSHIP OF THE BUSINESS ENTITY.

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

19   (I)   "WORKFORCE INVESTMENT AREA" MEANS A WORKFORCE INVESTMENT
20 AREA DESIGNATED BY THE GOVERNOR UNDER SUBTITLE 5 OF THIS TITLE.

21 11-702.

22   (A)   THERE IS A PILOT PROGRAM FOR LONG-TERM EMPLOYMENT OF
23 EX-FELONS TO PROVIDE INCENTIVES TO BUSINESS ENTITIES TO ENCOURAGE THE
24 LONG-TERM EMPLOYMENT OF QUALIFIED EX-FELON EMPLOYEES.

25   (B)   (1)   ON OR BEFORE JANUARY 1, 2006, THE DEPARTMENT, IN
26 CONSULTATION WITH THE BOARD, SHALL ESTABLISH A PILOT PROGRAM FOR THE
27 EMPLOYMENT OF EX-FELONS PROVIDED IN § 11-703 OF THIS SUBTITLE.

28   (2)   THE PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE SHALL
29 TERMINATE AT THE END OF DECEMBER 31, 2010.

30   (C)   THE PURPOSE OF THE PILOT PROGRAM IS TO IMPLEMENT A PROGRAM IN
31 AT LEAST TWO AREAS OF THE STATE TO PROVIDE FIDELITY BONDS AND TO QUALIFY
32 BUSINESS ENTITIES FOR TAX CREDITS TO ENCOURAGE THE LONG-TERM
33 EMPLOYMENT OF QUALIFIED EX-FELON EMPLOYEES UNDER THE PILOT PROGRAM.

34   (D)   THE DEPARTMENT SHALL:

35   (1)   PURCHASE THE NECESSARY AMOUNT OF FIDELITY BONDS TO
36 PROVIDE BONDS TO BUSINESS ENTITIES FOR A FULL YEAR OF EMPLOYMENT FOR UP
37 TO 150 QUALIFIED EX-FELONS EACH YEAR; AND

1   (2)   PROVIDE THE FIDELITY BONDS PURCHASED EACH YEAR TO THE
2 ONE-STOP CENTERS IN THE WORKFORCE INVESTMENT AREAS DESIGNATED UNDER
3 § 11-703 OF THIS SUBTITLE.

4   (E)   THE PILOT PROGRAM SHALL:

5   (1)   BE IMPLEMENTED IN ONE-STOP CENTERS IN AT LEAST TWO
6 WORKFORCE INVESTMENT AREAS OF THE STATE AS DESIGNATED BY THE
7 DEPARTMENT IN CONSULTATION WITH THE BOARD UNDER § 11-703 OF THIS
8 SUBTITLE; AND

9   (2)   PROVIDE FIDELITY BONDS TO BUSINESS ENTITIES THROUGH THE
10 ONE-STOP CENTERS IN TWO OR MORE AREAS OF THE STATE AS DESIGNATED UNDER
11 § 11-703 FOR THE EMPLOYMENT OF UP TO 150 QUALIFIED EX-FELONS EACH YEAR.

12   (F)   THE PILOT PROGRAM SHALL REQUIRE A ONE-STOP CENTER THAT IS
13 DESIGNATED FOR PARTICIPATION IN THE PILOT PROGRAM TO:

14   (1)   WORK WITH APPROPRIATE COMMUNITY ORGANIZATIONS AND STATE
15 AND LOCAL GOVERNMENT ENTITIES THAT PROVIDE SERVICES TO QUALIFIED
16 EX-FELONS TO ENCOURAGE THE REFERRAL AND PARTICIPATION OF QUALIFIED
17 EX-FELONS IN THE PROGRAM;

18   (2)   PROVIDE OUTREACH AND EDUCATION EFFORTS TO ENCOURAGE
19 BUSINESS ENTITIES TO HIRE QUALIFIED EX-FELONS FOR LONG-TERM
20 EMPLOYMENT UNDER THE PILOT PROGRAM;

21   (3)   PROVIDE A BUSINESS ENTITY THAT HIRES A QUALIFIED EX-FELON
22 UNDER THE PROGRAM WITH:

23   (I)   A FIDELITY BOND FOR THE QUALIFIED EX-FELON THAT
24 COVERS AT LEAST 12 MONTHS OF EMPLOYMENT; AND

25   (II)   INFORMATION ON THE TAX CREDITS AVAILABLE TO A
26 BUSINESS ENTITY THAT HIRES A QUALIFIED EX-FELON THROUGH THE PILOT
27 PROGRAM; AND

28   (4)   DEVELOP AN EVALUATION PROCESS FOR THE PILOT PROGRAM THAT
29 INCLUDES A MECHANISM TO EVALUATE WHETHER THE PILOT PROGRAM HAS
30 OPERATED TO SECURE STABLE EMPLOYMENT OF QUALIFIED EX-FELONS THAT
31 HAVE PARTICIPATED IN THE PROGRAM.

32 11-703.

33   (A)   A ONE-STOP CENTER SHALL APPLY TO THE DEPARTMENT FOR
34 DESIGNATION AS A LOCATION FOR THE PILOT PROGRAM.

35   (B)   THE APPLICATION SHALL DESCRIBE THE PLAN TO BE IMPLEMENTED BY
36 THE ONE-STOP CENTER TO ADMINISTER THE REQUIREMENTS OF THE PILOT
37 PROGRAM AS PROVIDED IN § 11-702 OF THIS SUBTITLE.

1   (C)   (1)   THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL
2 EVALUATE THE APPLICATIONS SUBMITTED BY ONE-STOP CENTERS AND SHALL
3 DESIGNATE ONE-STOP CENTERS IN AT LEAST TWO WORKFORCE INVESTMENT AREAS
4 AS PILOT PROGRAM LOCATIONS.

5   (2)   THE DESIGNATION OF ONE-STOP CENTERS UNDER PARAGRAPH (1)
6 OF THIS SUBSECTION SHALL INCLUDE A CONSIDERATION OF THE NUMBER OF
7 QUALIFIED EX-FELONS RESIDING IN THE WORKFORCE INVESTMENT AREA IN WHICH
8 THE ONE-STOP CENTER IS LOCATED.

9 11-704.

10   (A)   EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A BUSINESS
11 ENTITY THAT HIRES A QUALIFIED EX-FELON EMPLOYEE THROUGH THE PILOT
12 PROGRAM ESTABLISHED UNDER THIS SUBTITLE MAY CLAIM A TAX CREDIT IN THE
13 AMOUNTS DETERMINED UNDER SUBSECTION (B) OF THIS SECTION FOR WAGES PAID
14 TO A QUALIFIED EX-FELON EMPLOYEE.

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

17   (1)   30% OF UP TO THE FIRST $6,000 OF THE WAGES PAID TO THE
18 QUALIFIED EX-FELON EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND

19   (2)   20% OF UP TO THE FIRST $6,000 OF THE WAGES PAID TO THE
20 QUALIFIED EX-FELON EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.

21   (C)   (1)   A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
22 SECTION FOR AN EMPLOYEE:

23   (I)   WHO IS HIRED TO REPLACE A LAID OFF EMPLOYEE OR TO
24 REPLACE AN EMPLOYEE WHO IS ON STRIKE; OR

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

27   (2)   A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
28 SECTION UNTIL IT HAS NOTIFIED THE DEPARTMENT THAT A QUALIFIED EX-FELON
29 EMPLOYEE HAS BEEN HIRED.

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

33   (I)   VOLUNTARILY TERMINATES EMPLOYMENT WITH THE
34 EMPLOYER;

35   (II)   IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A DISABILITY
36 OR DEATH; OR

1   (III)   IS TERMINATED FOR CAUSE.

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

6   (5)   (I)   IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
7 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE
8 VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER
9 JOB, THE BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 30% OF UP TO THE FIRST
10 $6,000 OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF
11 EMPLOYMENT.

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

17   (D)   IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
18 EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY FOR THAT
19 TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR
20 SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

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

22   (2)   THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE
23 TAXABLE YEAR IN WHICH THE WAGES FOR WHICH THE CREDIT IS CLAIMED ARE
24 PAID.

25   (E)   IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT MUST
26 MAKE THE ADDITION REQUIRED IN § 10-205 OR § 10-306 OF THE TAX - GENERAL
27 ARTICLE.

28 11-705.

29   (A)   THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL ADOPT
30 REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

31   (B)   THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE
32 COMPUTATION AND CARRYOVER OF THE CREDIT UNDER § 10-704.10 OF THE TAX -
33 GENERAL ARTICLE.

1   **Article - Tax - General**

2 10-704.10.

3   (A)   AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE
4 INCOME TAX FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE AS PROVIDED
5 UNDER § 11-704 OF THE LABOR AND EMPLOYMENT ARTICLE.

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

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

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

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

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

18   (2)   IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE
19 YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE PAYABLE BY THE
20 ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES THAT THE ORGANIZATION
21 HAS WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE
22 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE FOR THE TAXABLE YEAR, THE
23 ORGANIZATION MAY APPLY THE EXCESS AS A CREDIT UNDER PARAGRAPH (1)(I) OR (II)
24 OF THIS SUBSECTION IN SUCCEEDING TAXABLE YEARS FOR THE CARRYFORWARD
25 PERIOD PROVIDED IN § 11-704 OF THE LABOR AND EMPLOYMENT ARTICLE.

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

29   SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 10-205(b) and
30 10-306(b)(1) of Article - Tax - General of the Annotated Code of Maryland be
31 repealed.

32   SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
33 read as follows:

1   **Article - Tax - General**

2 10-205.

3   (B)   THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE
4 AMOUNT OF A CREDIT CLAIMED UNDER:

5   (1)   § 10-702 OF THIS TITLE FOR WAGES PAID TO AN EMPLOYEE IN AN
6 ENTERPRISE ZONE;

7   (2)   § 10-704.3 OF THIS TITLE OR § 8-213 OF THIS ARTICLE FOR WAGES
8 PAID AND QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES INCURRED WITH
9 RESPECT TO QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEES;

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

13   (4)   § 10-704.10 OF THIS TITLE FOR WAGES PAID TO A QUALIFIED
14 EX-FELON EMPLOYEE.

15 10-306.

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

18   (1)   § 10-205(B) OF THIS TITLE (ENTERPRISE ZONE WAGE CREDIT,
19 EMPLOYMENT OPPORTUNITY CREDIT, DISABILITY CREDIT, AND QUALIFIED
20 EX-FELON EMPLOYEE CREDIT);

21   SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
22 be applicable to all taxable years beginning after December 31, 2005, but before
23 January 1, 2011; provided, however, that the tax credit under § 11-704 of the Labor
24 and Employment Article, as enacted by Section 1 of this Act, shall be allowed for
25 employees hired on or after January 1, 2006, but before January 1, 2011; and
26 provided further that any excess credits under § 11-704 of the Labor and
27 Employment Article may be carried forward and subject to the limitations under §
28 11-704, may be applied as a credit for taxable years beginning on or after January 1,
29 2011.

30   SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
31 this Act, this Act shall take effect July 1, 2005 and shall be applicable to all taxable
32 years beginning after December 31, 2005. Section 1 of this Act shall remain in effect
33 for a period of 5 years and 6 months and, at the end of December 31, 2010, with no
34 further action required by the General Assembly, Section 1 of this Act shall be
35 abrogated and of no further force and effect.