

# SENATE BILL 1003

Q3, J1  
HB 711/09 – W&M

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CF HB 1105

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By: **Senator Pugh**

Introduced and read first time: February 22, 2010

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Health Improvement and Disease**  
3 **Prevention Act of 2010**

4 FOR the purpose of providing a subtraction modification under the Maryland income  
5 tax for certain health– and fitness–related expenses; limiting the amount and  
6 type of expenses that certain taxpayers may subtract from federal adjusted  
7 gross income; requiring the Comptroller in cooperation with the Department of  
8 Health and Mental Hygiene to adopt certain regulations; defining certain terms;  
9 requiring the Comptroller and the Department to report to the General  
10 Assembly on or before a certain date; providing for the application of this Act;  
11 and generally relating to a subtraction modification under the Maryland income  
12 tax for certain health– and fitness–related expenses.

13 BY repealing and reenacting, without amendments,  
14 Article – Tax – General  
15 Section 10–208(a)  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2009 Supplement)

18 BY adding to  
19 Article – Tax – General  
20 Section 10–208(r)  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume and 2009 Supplement)

23 Preamble

24 WHEREAS, In 2007 62.7% of Maryland respondents to the Centers for Disease  
25 Control and Prevention’s Behavioral Risk Factor Surveillance Survey were overweight  
26 or obese; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The National Governor's Association's Report on Healthy Living,  
2 states that "One in three Maryland babies born in 2001 will develop diabetes during  
3 their lifetime, or a third of today's first graders will be tomorrow's diabetic patients";  
4 and

5 WHEREAS, Based on a study conducted by researchers and economists from  
6 Johns Hopkins University and the Centers for Disease Control and Prevention,  
7 Maryland's obesity-attributable medical expenditures were estimated at \$1.53 billion  
8 in 2004; and

9 WHEREAS, The Centers for Disease Control and Prevention estimate that  
10 health care costs directly associated with inactivity were \$76.6 billion in 2000; and

11 WHEREAS, The federal Medical Expenditure Panel Survey estimates that in  
12 2003 it cost \$277 billion to treat cancer, heart disease, hypertension, mental disorders,  
13 diabetes, pulmonary conditions, and stroke in noninstitutionalized Americans; and

14 WHEREAS, The Johns Hopkins University Partnership for Solutions in their  
15 2004 update to the study entitled "Chronic Conditions: Making the Case for Ongoing  
16 Care" found that more than half of all Americans suffer from one or more chronic  
17 diseases; and

18 WHEREAS, The New England Journal of Medicine in the 2007 article entitled  
19 "Explaining the Decrease in Deaths from Coronary Disease" reported that disease  
20 rates have risen dramatically, threatening to cancel out health care gains made over  
21 the past decades; and

22 WHEREAS, The Milken Institute 2007 study entitled "An Unhealthy America:  
23 The Economic Burden of Chronic Disease" found Maryland to be the 23rd least  
24 healthy state, as judged by its State Chronic Disease Index; and

25 WHEREAS, The recent study entitled "Cost Effectiveness of Community-Based  
26 Physical Activity Interventions" published in the Journal of Preventive Medicine in  
27 December of 2008 found that there is clear evidence to link physical inactivity with  
28 increased risk of many chronic diseases, including coronary heart disease (CHD),  
29 ischemic stroke, type 2 diabetes, breast cancer, and colorectal cancer; and

30 WHEREAS, That same study found the negative health effects of physical  
31 inactivity are paralleled by staggering economic consequences resulting in the annual  
32 cost directly attributable to inactivity in the U.S. to be an estimated \$24 billion to \$76  
33 billion, or 2.4% to 5% of national health care expenditures; and

34 WHEREAS, The Trust for America's Health in its report entitled "Prevention  
35 for a Healthier America" found that an investment of \$10 per person per year in  
36 proven community-based programs to increase physical activity, improve nutrition,  
37 and prevent smoking could save the country more than \$16 billion annually; and

1 WHEREAS, That same study found that the potential annual net savings and  
2 return on investment for Maryland with 5 years of spending \$10 per capita in disease  
3 prevention programs would yield \$332 million in savings or a return on investment of  
4 6 to 1; now, therefore,

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

7 **Article – Tax – General**

8 10–208.

9 (a) In addition to the modification under § 10–207 of this subtitle, the  
10 amounts under this section are subtracted from the federal adjusted gross income of a  
11 resident to determine Maryland adjusted gross income.

12 **(R) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**  
13 **THE MEANINGS INDICATED.**

14 **(II) “QUALIFIED FITNESS EXPENSE” MEANS AN EXPENSE**  
15 **FOR:**

16 **1. PARTICIPATION IN AN EVIDENCE BASED HEALTH**  
17 **AND FITNESS PROGRAM, INCLUDING:**

18 **A. AEROBIC EXERCISE TRAINING;**

19 **B. MARTIAL ARTS;**

20 **C. PERSONAL TRAINING; OR**

21 **D. YOGA; OR**

22 **2. MEMBERSHIP IN A GYM, HEALTH CLUB, OR**  
23 **STUDIO THAT IS OPEN TO THE GENERAL PUBLIC.**

24 **(III) “QUALIFIED PHYSICAL ACTIVITY PROGRAM” MEANS AN**  
25 **EVIDENCE BASED PROGRAM TO ENCOURAGE CHILDREN TO ENGAGE IN**  
26 **MODERATE OR VIGOROUS PHYSICAL ACTIVITY FOR AT LEAST 45 MINUTES A DAY**  
27 **AT LEAST 3 DAYS A WEEK.**

28 **(IV) “QUALIFIED TOBACCO CESSATION PROGRAM” MEANS**  
29 **AN EVIDENCE BASED PROGRAM TO ASSIST PARTICIPANTS IN ENDING THE USE**  
30 **OF TOBACCO PRODUCTS.**

1 (v) "QUALIFIED WEIGHT LOSS PROGRAM" MEANS AN  
2 EVIDENCE BASED PROGRAM TO ASSIST PARTICIPANTS IN LOSING WEIGHT.

3 (2) SUBJECT TO THE LIMITATIONS UNDER PARAGRAPHS (3) AND  
4 (4) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS  
5 SECTION INCLUDES THE AMOUNTS DETERMINED UNDER THIS SUBSECTION FOR  
6 EXPENSES INCURRED DURING THE TAXABLE YEAR FOR:

7 (i) QUALIFIED FITNESS EXPENSES FOR THE TAXPAYER OR  
8 THE TAXPAYER'S SPOUSE OR ADULT DEPENDENT;

9 (ii) PARTICIPATION BY THE TAXPAYER OR THE TAXPAYER'S  
10 SPOUSE OR DEPENDENT IN A QUALIFIED TOBACCO CESSATION PROGRAM;

11 (iii) PARTICIPATION BY THE TAXPAYER OR THE TAXPAYER'S  
12 SPOUSE OR DEPENDENT IN A QUALIFIED WEIGHT LOSS PROGRAM; OR

13 (iv) PARTICIPATION BY A CHILD DEPENDENT OF THE  
14 TAXPAYER IN A QUALIFIED PHYSICAL ACTIVITY PROGRAM.

15 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE  
16 EXPENSES UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED:

17 (i) FOR EACH TAXPAYER OR SPOUSE OR DEPENDENT OF  
18 THE TAXPAYER:

19 1. \$500 OF QUALIFIED FITNESS EXPENSES, OR \$750  
20 FOR EXPENSES INCURRED FOR EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO  
21 IS AT LEAST 65 YEARS OLD ON THE LAST DAY OF THE TAXABLE YEAR;

22 2. \$500 OF EXPENSES FOR PARTICIPATION IN A  
23 QUALIFIED TOBACCO CESSATION PROGRAM, OR \$750 FOR EXPENSES INCURRED  
24 FOR EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO IS AT LEAST 65 YEARS OLD  
25 ON THE LAST DAY OF THE TAXABLE YEAR; AND

26 3. \$500 OF EXPENSES FOR PARTICIPATION IN A  
27 QUALIFIED WEIGHT LOSS PROGRAM, OR \$750 FOR EXPENSES INCURRED FOR  
28 EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO IS AT LEAST 65 YEARS OLD ON  
29 THE LAST DAY OF THE TAXABLE YEAR; AND

30 (ii) FOR EACH CHILD WHO IS A DEPENDENT OF THE  
31 TAXPAYER, \$500 OF EXPENSES FOR PARTICIPATION IN A QUALIFIED PHYSICAL  
32 ACTIVITY PROGRAM.

1           **(4) (I) FOR AN INDIVIDUAL OTHER THAN AN INDIVIDUAL**  
2 **DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE TOTAL**  
3 **SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED \$1,500 FOR ANY**  
4 **TAXABLE YEAR.**

5           **(II) FOR A MARRIED INDIVIDUAL FILING A SEPARATE**  
6 **RETURN, THE TOTAL SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED**  
7 **\$750 FOR ANY TAXABLE YEAR.**

8           **(5) THE COMPTROLLER IN COOPERATION WITH THE**  
9 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL:**

10           **(I) ADMINISTER THE SUBTRACTION UNDER THIS**  
11 **SUBSECTION; AND**

12           **(II) ADOPT REGULATIONS THAT SPECIFY THE EXPENSES**  
13 **ELIGIBLE FOR THE SUBTRACTION UNDER THIS SUBSECTION.**

14           SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller in  
15 consultation with the Secretary of the Department of Health and Mental Hygiene  
16 shall adopt regulations to establish evidence based criteria for programs and expenses  
17 that must be met in order to be deemed qualified under the provisions of this Act.

18           SECTION 3. AND BE IT FURTHER ENACTED, That, on or before September  
19 1, 2010, the Comptroller and the Department of Health and Mental Hygiene shall  
20 report to the General Assembly, in accordance with § 2-1246 of the State Government  
21 Article, on the implementation of this Act.

22           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 2010, and shall be applicable to all taxable years beginning after December 31,  
24 2010.