

# SENATE BILL 615

C8, Q3

3lr1048

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By: **Senators Klausmeier, Benson, Brochin, Colburn, Ferguson, Forehand,  
Garagiola, Jacobs, Kittleman, Madaleno, and Middleton**

Introduced and read first time: February 1, 2013

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Job Creation Incentive Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax for a certain  
4 amount of the qualified wages paid by a qualified business entity for certain  
5 qualified positions; requiring the Secretary of the Department of Business and  
6 Economic Development to certify certain persons that establish or expand a  
7 business in the State as qualified business entities; requiring the Department to  
8 provide for a certain number of credit application periods a year; authorizing  
9 the Department to issue a certain amount of credit certificates each year;  
10 requiring the Comptroller, after a certain number of days after a credit  
11 certificate is issued, to transfer a certain amount from the Job Creation  
12 Incentive Tax Credit Reserve Fund to the General Fund; providing for the  
13 calculation of the amount of the credit; prohibiting a qualified business entity  
14 from carrying back any excess credit; allowing a qualified business entity to  
15 carry forward any excess credit; allowing certain organizations to claim the  
16 credit under certain circumstances; requiring the Comptroller to share certain  
17 information with the Department; requiring the Department to report to the  
18 Governor and the General Assembly on or before a certain date; requiring the  
19 Secretary to adopt regulations to administer the credit; establishing the Job  
20 Creation Incentive Tax Credit Reserve Fund as a special, nonlapsing fund;  
21 specifying the purpose of the Fund; requiring the Secretary to administer the  
22 Fund; requiring the State Treasurer to hold the Fund and the Comptroller to  
23 account for the Fund; specifying the contents of the Fund; providing for the  
24 investment of money in and expenditures from the Fund; requiring the  
25 Governor to make certain appropriations in certain fiscal years; defining certain  
26 terms; providing for the application of this Act; and generally relating to  
27 allowing a certain credit against the State income tax for wages paid for the  
28 creation of certain qualified positions.

29 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Economic Development  
2 Section 6–601 through 6–608 to be under the new subtitle “Subtitle 6. Job  
3 Creation Incentive Tax Credit”  
4 Annotated Code of Maryland  
5 (2008 Volume and 2012 Supplement)

6 BY adding to  
7 Article – Tax – General  
8 Section 10–733  
9 Annotated Code of Maryland  
10 (2010 Replacement Volume and 2012 Supplement)

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

13 **Article – Economic Development**

14 **SUBTITLE 6. JOB CREATION INCENTIVE TAX CREDIT.**

15 **6–601.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (B) “CREDIT YEAR” MEANS THE TAXABLE YEAR IN WHICH A QUALIFIED  
19 BUSINESS ENTITY CLAIMS THE CREDIT ALLOWED IN ACCORDANCE WITH § 6–604  
20 OF THIS SUBTITLE.

21 (C) “MANUFACTURING JOB” MEANS A QUALIFIED POSITION CREATED  
22 BY A QUALIFIED BUSINESS ENTITY THAT IS ENGAGED PRIMARILY IN ACTIVITIES  
23 THAT, IN ACCORDANCE WITH THE NORTH AMERICAN INDUSTRIAL  
24 CLASSIFICATION SYSTEM, UNITED STATES MANUAL, UNITED STATES OFFICE  
25 OF MANAGEMENT AND BUDGET, 1997 EDITION, WOULD BE INCLUDED IN  
26 SECTOR 11, 31, 32, OR 33.

27 (D) “QUALIFIED BUSINESS ENTITY” MEANS A PERSON CONDUCTING OR  
28 OPERATING A TRADE OR BUSINESS IN THE STATE THAT IS CERTIFIED IN  
29 ACCORDANCE WITH § 6–603 OF THIS SUBTITLE AS QUALIFYING FOR THE TAX  
30 CREDIT UNDER THIS SUBTITLE.

31 (E) (1) “QUALIFIED POSITION” MEANS A POSITION THAT:

32 (I) IS FULL TIME AND OF INDEFINITE DURATION;

33 (II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

1 (III) IS LOCATED IN THE STATE;

2 (IV) IS NEWLY CREATED AS A RESULT OF THE  
3 ESTABLISHMENT OR EXPANSION OF A BUSINESS IN THE STATE; AND

4 (V) IS FILLED.

5 (2) "QUALIFIED POSITION" DOES NOT INCLUDE A POSITION THAT  
6 IS:

7 (I) CREATED WHEN AN EMPLOYMENT FUNCTION IS  
8 SHIFTED FROM AN EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE  
9 STATE TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE  
10 POSITION IS NOT A NET NEW JOB IN THE STATE;

11 (II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A  
12 TRADE OR BUSINESS;

13 (III) CREATED THROUGH A CONSOLIDATION, MERGER, OR  
14 RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW  
15 JOB IN THE STATE;

16 (IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS  
17 SHIFTED CONTRACTUALLY FROM AN EXISTING BUSINESS ENTITY TO ANOTHER  
18 BUSINESS ENTITY IN THE STATE IF THE POSITION IS NOT A NET NEW JOB IN THE  
19 STATE; OR

20 (V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

21 (F) "RESERVE FUND" MEANS THE JOB CREATION INCENTIVE TAX  
22 CREDIT RESERVE FUND ESTABLISHED UNDER § 6-608 OF THIS SUBTITLE.

23 **6-602.**

24 THE GENERAL ASSEMBLY INTENDS THAT THE PURPOSE OF THE JOB  
25 CREATION INCENTIVE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE IS TO  
26 INCREASE THE NUMBER OF NEW JOBS IN THE STATE BY ENCOURAGING:

27 (1) THE EXPANSION AND ESTABLISHMENT OF MANUFACTURING  
28 ENTERPRISES;

1                   **(2) THE EXPANSION OF EXISTING PRIVATE SECTOR ENTERPRISES;**  
2 **AND**

3                   **(3) THE ESTABLISHMENT OR ATTRACTION OF NEW PRIVATE**  
4 **SECTOR ENTERPRISES.**

5 **6-603.**

6           **(A) (1) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL**  
7 **CERTIFY A PERSON AS A QUALIFIED BUSINESS ENTITY IF THE PERSON MEETS**  
8 **THE REQUIREMENTS OF THIS SECTION.**

9                   **(2) A PERSON MAY NOT BE CERTIFIED AS A QUALIFIED BUSINESS**  
10 **ENTITY UNLESS THE PERSON NOTIFIES THE DEPARTMENT OF THE PERSON'S**  
11 **INTENT TO SEEK CERTIFICATION BEFORE HIRING ANY QUALIFIED EMPLOYEES**  
12 **TO FILL THE QUALIFIED POSITIONS.**

13           **(B) TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SUBTITLE, A**  
14 **PERSON SHALL ESTABLISH OR EXPAND A BUSINESS IN THE STATE.**

15 **6-604.**

16           **(A) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE**  
17 **SECRETARY SHALL ISSUE A CREDIT CERTIFICATE FOR EACH QUALIFIED**  
18 **BUSINESS ENTITY THAT HIRES QUALIFIED EMPLOYEES TO FILL QUALIFIED**  
19 **POSITIONS.**

20                   **(2) THE CREDIT CERTIFICATE SHALL STATE THE MAXIMUM**  
21 **AMOUNT OF TAX CREDITS FOR WHICH THE QUALIFIED BUSINESS ENTITY IS**  
22 **ELIGIBLE FOR EACH OF THE 4 CREDIT YEARS UNDER SUBSECTION (C) OF THIS**  
23 **SECTION.**

24           **(B) (1) THREE TIMES EACH FISCAL YEAR THE DEPARTMENT SHALL**  
25 **ALLOW QUALIFIED BUSINESS ENTITIES TO APPLY FOR CREDIT CERTIFICATES**  
26 **FOR HIRING QUALIFIED EMPLOYEES TO FILL QUALIFIED POSITIONS.**

27                   **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
28 **PARAGRAPH, DURING EACH APPLICATION PERIOD, THE TOTAL AMOUNT OF**  
29 **CREDIT CERTIFICATES THE DEPARTMENT MAY ISSUE MAY NOT EXCEED**  
30 **ONE-THIRD OF THE AMOUNT APPROPRIATED IN THE STATE BUDGET TO THE**  
31 **RESERVE FUND.**

1                   **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER THE**  
2 **CREDIT CERTIFICATES ISSUED DURING THE APPLICATION PERIOD TOTAL LESS**  
3 **THAN THE TOTAL AMOUNT THE DEPARTMENT MAY ISSUE UNDER**  
4 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY EXCESS AMOUNT SHALL REMAIN**  
5 **IN THE RESERVE FUND AND MAY BE ISSUED UNDER CREDIT CERTIFICATES**  
6 **DURING THE NEXT APPLICATION PERIOD.**

7                   **(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**  
8 **SUBSECTION, IF THE AMOUNT OF CREDITS SOUGHT DURING THE APPLICATION**  
9 **PERIOD EXCEEDS THE AMOUNT AUTHORIZED TO BE ISSUED, THE DEPARTMENT**  
10 **SHALL APPROVE CREDIT CERTIFICATES IN AMOUNTS THAT ARE IN PROPORTION**  
11 **TO THE NUMBER OF QUALIFIED POSITIONS CREATED.**

12                   **(4) DURING THE FIRST AND SECOND APPLICATION PERIODS**  
13 **EACH FISCAL YEAR, THE DEPARTMENT SHALL SET ASIDE FOR MANUFACTURING**  
14 **JOBS AT LEAST 30% OF THE AMOUNT OF CREDIT CERTIFICATES TO BE ISSUED.**

15                   **(C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE AMOUNT**  
16 **OF A CREDIT ALLOWED FOR A CREDIT YEAR IS EQUAL TO 4.75% OF THE AMOUNT**  
17 **OF THE PERCENTAGE SPECIFIED IN PARAGRAPHS (2) THROUGH (5) OF THIS**  
18 **SUBSECTION OF THE WAGES PAID BY THE QUALIFIED BUSINESS ENTITY TO**  
19 **EMPLOYEES IN QUALIFIED POSITIONS.**

20                   **(2) DURING THE FIRST CREDIT YEAR, A QUALIFIED BUSINESS**  
21 **ENTITY MAY CLAIM THE CREDIT ALLOWED IN PARAGRAPH (1) OF THIS**  
22 **SUBSECTION FOR 80% OF THE WAGES ELIGIBLE UNDER PARAGRAPH (1) OF THIS**  
23 **SUBSECTION.**

24                   **(3) DURING THE SECOND CREDIT YEAR, A QUALIFIED BUSINESS**  
25 **ENTITY MAY CLAIM THE CREDIT ALLOWED IN PARAGRAPH (1) OF THIS**  
26 **SUBSECTION FOR 60% OF THE WAGES ELIGIBLE UNDER PARAGRAPH (1) OF THIS**  
27 **SUBSECTION.**

28                   **(4) DURING THE THIRD CREDIT YEAR, A QUALIFIED BUSINESS**  
29 **ENTITY MAY CLAIM THE CREDIT ALLOWED IN PARAGRAPH (1) OF THIS**  
30 **SUBSECTION FOR 40% OF THE WAGES ELIGIBLE UNDER PARAGRAPH (1) OF THIS**  
31 **SUBSECTION.**

32                   **(5) DURING THE FOURTH CREDIT YEAR, A QUALIFIED BUSINESS**  
33 **ENTITY MAY CLAIM THE CREDIT ALLOWED IN PARAGRAPH (1) OF THIS**  
34 **SUBSECTION FOR 20% OF THE WAGES ELIGIBLE UNDER PARAGRAPH (1) OF THIS**  
35 **SUBSECTION.**

1           **(D) (1) THE TOTAL AMOUNT OF CREDITS A QUALIFIED BUSINESS**  
2 **ENTITY MAY CLAIM MAY NOT EXCEED THE AMOUNT OF CREDIT CERTIFICATES**  
3 **ISSUED TO THE QUALIFIED BUSINESS ENTITY.**

4           **(2) (I) WITHIN 15 DAYS AFTER THE END OF EACH**  
5 **APPLICATION PERIOD, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER**  
6 **AS TO THE MAXIMUM AMOUNT STATED IN EACH CREDIT CERTIFICATE ISSUED**  
7 **DURING THE APPLICATION PERIOD.**

8                       **(II) THE COMPTROLLER SHALL TRANSFER AN AMOUNT**  
9 **EQUAL TO THE CREDIT AMOUNT STATED IN THE CREDIT CERTIFICATES FROM**  
10 **THE RESERVE FUND TO THE GENERAL FUND.**

11           **(E) (1) IF THE CREDIT ALLOWED FOR ANY TAXABLE YEAR UNDER**  
12 **THIS SECTION EXCEEDS THE TOTAL TAX OTHERWISE DUE FROM A QUALIFIED**  
13 **BUSINESS ENTITY FOR THAT TAXABLE YEAR, THE QUALIFIED BUSINESS ENTITY**  
14 **MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL**  
15 **THE FULL AMOUNT OF THE EXCESS IS USED.**

16           **(2) THE CREDIT UNDER THIS SUBTITLE MAY NOT BE CARRIED**  
17 **BACK TO A PRECEDING TAXABLE YEAR.**

18           **(F) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §**  
19 **501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT**  
20 **UNDER THIS SECTION:**

21                       **(1) AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED**  
22 **BUSINESS TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF**  
23 **THE TAX – GENERAL ARTICLE; OR**

24                       **(2) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF**  
25 **TAXES THAT THE ORGANIZATION:**

26                               **(I) IS REQUIRED TO WITHHOLD FROM THE WAGES OF**  
27 **EMPLOYEES UNDER § 10-908 OF THE TAX – GENERAL ARTICLE; AND**

28                               **(II) IS REQUIRED TO PAY TO THE COMPTROLLER UNDER §**  
29 **10-906(A) OF THE TAX – GENERAL ARTICLE.**

30 **6-605.**

1           **(A) THE COMPTROLLER SHALL SHARE WITH THE DEPARTMENT ANY**  
2 **INFORMATION RECEIVED FROM A QUALIFIED BUSINESS ENTITY ABOUT**  
3 **ELIGIBILITY FOR A CREDIT ALLOWED UNDER THIS SUBTITLE.**

4           **(B) INFORMATION THAT IS RECEIVED UNDER SUBSECTION (A) OF THIS**  
5 **SECTION IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS ESTABLISHED**  
6 **BY STATUTE OR REGULATION THAT APPLY TO THE COMPTROLLER.**

7           **6-606.**

8           **ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL**  
9 **REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE**  
10 **STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE BUSINESS**  
11 **ENTITIES CERTIFIED AS ELIGIBLE FOR AND THE NUMBER OF QUALIFIED**  
12 **POSITIONS CREATED BY THE JOB CREATION INCENTIVE TAX CREDITS UNDER**  
13 **THIS SUBTITLE IN THE PRECEDING FISCAL YEAR.**

14           **6-607.**

15           **THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL**  
16 **ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

17           **6-608.**

18           **(A) IN THIS SECTION, “FUND” MEANS THE JOB CREATION INCENTIVE**  
19 **TAX CREDIT RESERVE FUND.**

20           **(B) THERE IS A JOB CREATION INCENTIVE TAX CREDIT RESERVE**  
21 **FUND.**

22           **(C) THE PURPOSE OF THE FUND IS TO PROVIDE A BUDGETARY LIMIT ON**  
23 **THE AMOUNT OF TAX CREDITS THE DEPARTMENT MAY ISSUE EACH YEAR.**

24           **(D) THE SECRETARY SHALL ADMINISTER THE FUND.**

25           **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
26 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

27           **(2) THE STATE TREASURER SHALL HOLD THE FUND**  
28 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

29           **(F) (1) THE FUND CONSISTS OF MONEY APPROPRIATED IN THE**  
30 **STATE BUDGET TO THE FUND.**

