

HOUSE BILL 883

Q3

8lr2364

By: **Delegates Queen, Ali, Kelly, Lierman, Patterson, Pena–Melnyk, and Proctor**
Introduced and read first time: February 5, 2018
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credits – Employer Child Care Center and Employer–Provided**
3 **Child Care Services**

4 FOR the purpose of authorizing a credit against the State income tax for certain taxpayers
5 who, during the taxable year, incur certain qualified expenses for a certain child care
6 center that provides child care services for certain children or who compensate a
7 certain child care provider or child care referral service under certain circumstances;
8 providing that the credit may not exceed a certain amount and may not be carried
9 over to any other taxable year; providing for the calculation of the credit; requiring
10 the State Department of Education, on application of a taxpayer, to issue a tax credit
11 certificate under certain circumstances; requiring the application to contain certain
12 information; providing that the maximum amount stated on a tax credit certificate
13 may not exceed a certain amount; requiring the Department to approve applications
14 on a first–come, first–served basis and notify applicants of approval or denial of an
15 application within a certain number of days of receipt of the application; providing
16 that the total amount of tax credit certificates issued by the Department may not
17 exceed a certain amount for each fiscal year; providing that tax credit certificate
18 amounts not issued during a fiscal year may be carried over and issued during the
19 next fiscal year; establishing the Employer Child Care Center Tax Credit Reserve
20 Fund and the Employer–Provided Child Care Services Tax Credit Reserve Fund as
21 special, nonlapsing funds; requiring the Governor to include appropriations for each
22 Reserve Fund in the annual budget bill; authorizing the payment of certain
23 administrative costs from each Reserve Fund; providing for the investment of money
24 in and expenditures from each Reserve Fund; specifying the contents of each Reserve
25 Fund; requiring the Comptroller to transfer certain amounts from each Reserve
26 Fund to the General Fund under certain circumstances; requiring the Comptroller
27 to transfer certain amounts from each Reserve Fund to the Department for certain
28 purposes; requiring the Department to report certain information to the General
29 Assembly on or before a certain date each year; requiring the Department to adopt
30 certain regulations; defining certain terms; providing for the application of this Act;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and generally relating to certain credits against the State income tax for employer
2 child care centers and employer–provided child care services.

3 BY adding to

4 Article – Tax – General

5 Section 10–746 and 10–747

6 Annotated Code of Maryland

7 (2016 Replacement Volume and 2017 Supplement)

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

10 **Article – Tax – General**

11 **10–746.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (2) “CHILD CARE CENTER” HAS THE MEANING STATED IN § 9.5–401
15 OF THE EDUCATION ARTICLE.

16 (3) “DEPARTMENT” MEANS THE STATE DEPARTMENT OF
17 EDUCATION.

18 (4) “QUALIFIED EXPENSES” MEANS:

19 (I) COSTS INCURRED TO CONSTRUCT, RENOVATE, OR EXPAND A
20 CHILD CARE CENTER; AND

21 (II) COSTS INCURRED TO PURCHASE EQUIPMENT FOR A CHILD
22 CARE CENTER.

23 (5) “RESERVE FUND” MEANS THE EMPLOYER CHILD CARE CENTER
24 TAX CREDIT RESERVE FUND.

25 (B) (1) A TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME
26 TAX IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER
27 SUBSECTION (C) OF THIS SECTION FOR THE TAXABLE YEAR IN WHICH THE TAXPAYER
28 INCURS QUALIFIED EXPENSES FOR A CHILD CARE CENTER THAT PROVIDES CHILD
29 CARE SERVICES FOR THE CHILDREN OF THE TAXPAYER’S EMPLOYEES.

30 (2) (I) THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS
31 SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE STATE INCOME TAX FOR

1 THAT TAXABLE YEAR.

2 (II) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE
3 YEAR MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

4 (C) (1) ON APPLICATION BY A TAXPAYER, THE DEPARTMENT SHALL
5 ISSUE A CREDIT CERTIFICATE IN THE AMOUNT OF 25% OF THE QUALIFIED EXPENSES
6 INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR FOR A CHILD CARE
7 CENTER THAT PROVIDES CHILD CARE SERVICES FOR THE CHILDREN OF THE
8 TAXPAYER'S EMPLOYEES.

9 (2) THE APPLICATION SHALL CONTAIN:

10 (I) THE NAME OF THE TAXPAYER;

11 (II) THE LOCATION AND LICENSING INFORMATION OF THE
12 CHILD CARE CENTER;

13 (III) PROOF OF THE QUALIFIED EXPENSES INCURRED BY THE
14 TAXPAYER DURING THE TAXABLE YEAR FOR THE CHILD CARE CENTER; AND

15 (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT
16 REQUIRES.

17 (3) FOR ANY TAXABLE YEAR, THE AMOUNT OF THE TAX CREDIT
18 STATED IN THE TAX CREDIT CERTIFICATE MAY NOT EXCEED \$50,000.

19 (4) THE DEPARTMENT SHALL:

20 (I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX
21 CREDIT CERTIFICATE UNDER THIS SUBSECTION ON A FIRST-COME, FIRST-SERVED
22 BASIS; AND

23 (II) NOTIFY A TAXPAYER WITHIN 45 DAYS OF RECEIPT OF THE
24 TAXPAYER'S APPLICATION OF ITS APPROVAL OR DENIAL.

25 (5) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH,
26 FOR ANY FISCAL YEAR, THE DEPARTMENT MAY NOT ISSUE TAX CREDIT
27 CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN
28 THE AMOUNT APPROPRIATED FOR THE RESERVE FUND FOR THAT FISCAL YEAR IN
29 THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

30 (II) IF THE AGGREGATE CREDIT AMOUNTS UNDER TAX CREDIT

1 CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT
2 APPROPRIATED FOR THE RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS
3 AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER TAX
4 CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

5 (III) FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED FROM
6 THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW OTHER
7 THAN UNDER SUBSECTION (D) OF THIS SECTION, THE MAXIMUM CREDIT AMOUNTS
8 IN THE AGGREGATE FOR WHICH THE DEPARTMENT MAY ISSUE TAX CREDIT
9 CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

10 (6) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE
11 BUDGET BILL AN APPROPRIATION FOR THE RESERVE FUND.

12 (7) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE
13 FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN
14 APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY
15 THE GENERAL ASSEMBLY.

16 (D) (1) (I) THERE IS AN EMPLOYER CHILD CARE CENTER TAX CREDIT
17 RESERVE FUND THAT IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO §
18 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19 (II) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED
20 AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE
21 CREDITED TO THE GENERAL FUND.

22 (III) THE MONEY IN THE RESERVE FUND MAY BE USED BY THE
23 DEPARTMENT TO PAY THE COSTS OF ADMINISTERING THE TAX CREDIT AUTHORIZED
24 UNDER THIS SECTION.

25 (2) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY
26 APPROPRIATED FOR THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

27 (II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR
28 QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH
29 CREDIT CERTIFICATE ISSUED DURING THE QUARTER.

30 2. ON NOTIFICATION THAT A CREDIT AMOUNT HAS BEEN
31 CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE
32 CREDIT AMOUNT STATED IN THE TAX CREDIT CERTIFICATE FROM THE RESERVE
33 FUND TO THE GENERAL FUND.

1 (III) 1. PERIODICALLY, BUT NOT MORE FREQUENTLY THAN
2 QUARTERLY, THE DEPARTMENT MAY SUBMIT INVOICES FOR COSTS THAT HAVE
3 BEEN INCURRED OR ARE ANTICIPATED TO BE INCURRED IN ADMINISTERING THE
4 TAX CREDIT AUTHORIZED UNDER THIS SECTION.

5 2. THE COMPTROLLER SHALL TRANSFER MONEY FROM
6 THE RESERVE FUND TO THE DEPARTMENT TO PAY FOR COSTS THAT HAVE BEEN
7 INCURRED OR ARE ANTICIPATED TO BE INCURRED IN ADMINISTERING THE TAX
8 CREDIT AUTHORIZED UNDER THIS SECTION.

9 (E) ON OR BEFORE JANUARY 31 EACH YEAR, THE DEPARTMENT SHALL
10 REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
11 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE UTILIZATION OF THE
12 CREDIT AUTHORIZED UNDER THIS SECTION.

13 (F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE
14 PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES FOR
15 APPLICATION FOR AND APPROVAL OF ELIGIBILITY FOR THE TAX CREDIT
16 AUTHORIZED UNDER THIS SECTION.

17 10-747.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) "CHILD CARE PROVIDER" HAS THE MEANING STATED IN § 9.5-601
21 OF THE EDUCATION ARTICLE.

22 (3) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF
23 EDUCATION.

24 (4) "RESERVE FUND" MEANS THE EMPLOYER-PROVIDED CHILD
25 CARE SERVICES TAX CREDIT RESERVE FUND.

26 (5) "TAXPAYER" DOES NOT INCLUDE AN INDIVIDUAL WHO IS
27 SELF-EMPLOYED.

28 (B) (1) A TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME
29 TAX IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER
30 SUBSECTION (C) OF THIS SECTION IF, DURING THE TAXABLE YEAR, THE TAXPAYER:

31 (I) COMPENSATES A CHILD CARE PROVIDER WHO PROVIDES
32 CHILD CARE SERVICES TO THE CHILDREN OF THE TAXPAYER'S EMPLOYEES; OR

1 (II) COMPENSATES A CHILD CARE REFERRAL SERVICE FOR
2 SERVICES PROVIDED TO THE TAXPAYER'S EMPLOYEES.

3 (2) (I) THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS
4 SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE STATE INCOME TAX FOR
5 THAT TAXABLE YEAR.

6 (II) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE
7 YEAR MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

8 (C) (1) ON APPLICATION BY A TAXPAYER, THE DEPARTMENT SHALL
9 ISSUE A CREDIT CERTIFICATE IN THE AMOUNT OF:

10 (I) 25% OF THE COMPENSATION PAID TO CHILD CARE
11 PROVIDERS FOR THE CARE OF EACH CHILD OF AN EMPLOYEE, NOT EXCEEDING
12 \$1,250 PER CHILD; AND

13 (II) 25% OF THE COMPENSATION PAID TO CHILD CARE
14 REFERRAL SERVICES.

15 (2) THE APPLICATION SHALL CONTAIN:

16 (I) THE NAME OF THE TAXPAYER;

17 (II) PROOF OF THE EXPENSES INCURRED BY THE TAXPAYER
18 DURING THE TAXABLE YEAR TO COMPENSATE CHILD CARE PROVIDERS OR CHILD
19 CARE REFERRAL SERVICES; AND

20 (III) ANY OTHER INFORMATION THAT THE DEPARTMENT
21 REQUIRES.

22 (3) FOR ANY TAXABLE YEAR, THE AMOUNT OF THE TAX CREDIT
23 STATED IN THE TAX CREDIT CERTIFICATE MAY NOT EXCEED \$50,000.

24 (4) THE DEPARTMENT SHALL:

25 (I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX
26 CREDIT CERTIFICATE UNDER THIS SUBSECTION ON A FIRST-COME, FIRST-SERVED
27 BASIS; AND

28 (II) NOTIFY A TAXPAYER WITHIN 45 DAYS OF RECEIPT OF THE
29 TAXPAYER'S APPLICATION OF ITS APPROVAL OR DENIAL.

1 **(5) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH,**
2 **FOR ANY FISCAL YEAR, THE DEPARTMENT MAY NOT ISSUE TAX CREDIT**
3 **CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN**
4 **THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN**
5 **THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.**

6 **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER TAX CREDIT**
7 **CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT**
8 **APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS**
9 **AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER TAX**
10 **CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.**

11 **(III) FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED FROM**
12 **THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW OTHER**
13 **THAN UNDER SUBSECTION (D) OF THIS SECTION, THE MAXIMUM CREDIT AMOUNTS**
14 **IN THE AGGREGATE FOR WHICH THE DEPARTMENT MAY ISSUE TAX CREDIT**
15 **CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.**

16 **(6) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE**
17 **BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND.**

18 **(7) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE**
19 **FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN**
20 **APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY**
21 **THE GENERAL ASSEMBLY.**

22 **(D) (1) (I) THERE IS AN EMPLOYER-PROVIDED CHILD CARE**
23 **SERVICES TAX CREDIT RESERVE FUND THAT IS A SPECIAL, NONLAPSING FUND**
24 **THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT**
25 **ARTICLE.**

26 **(II) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED**
27 **AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE**
28 **CREDITED TO THE GENERAL FUND.**

29 **(III) THE MONEY IN THE RESERVE FUND MAY BE USED BY THE**
30 **DEPARTMENT TO PAY THE COSTS OF ADMINISTERING THE TAX CREDIT AUTHORIZED**
31 **UNDER THIS SECTION.**

32 **(2) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY**
33 **APPROPRIATED FOR THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.**

1 **(ii) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR**
2 **QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH**
3 **CREDIT CERTIFICATE ISSUED DURING THE QUARTER.**

4 **2. ON NOTIFICATION THAT A CREDIT AMOUNT HAS BEEN**
5 **CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE**
6 **CREDIT AMOUNT STATED IN THE TAX CREDIT CERTIFICATE FROM THE RESERVE**
7 **FUND TO THE GENERAL FUND.**

8 **(iii) 1. PERIODICALLY, BUT NOT MORE FREQUENTLY THAN**
9 **QUARTERLY, THE DEPARTMENT MAY SUBMIT INVOICES FOR COSTS THAT HAVE**
10 **BEEN INCURRED OR ARE ANTICIPATED TO BE INCURRED IN ADMINISTERING THE**
11 **TAX CREDIT AUTHORIZED UNDER THIS SECTION.**

12 **2. THE COMPTROLLER SHALL TRANSFER MONEY FROM**
13 **THE RESERVE FUND TO THE DEPARTMENT TO PAY FOR COSTS THAT HAVE BEEN**
14 **INCURRED OR ARE ANTICIPATED TO BE INCURRED IN ADMINISTERING THE TAX**
15 **CREDIT AUTHORIZED UNDER THIS SECTION.**

16 **(e) ON OR BEFORE JANUARY 31 EACH YEAR, THE DEPARTMENT SHALL**
17 **REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §**
18 **2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE UTILIZATION OF THE**
19 **CREDIT AUTHORIZED UNDER THIS SECTION.**

20 **(f) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE**
21 **PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES FOR**
22 **APPLICATION FOR AND APPROVAL OF ELIGIBILITY FOR THE TAX CREDIT**
23 **AUTHORIZED UNDER THIS SECTION.**

24 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
25 **1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017.**