

SENATE BILL 106

C8

EMERGENCY BILL
ENROLLED BILL

(0lr0160)

— *Budget and Taxation/Ways and Means* —

Introduced by **The President (By Request – Administration) and Senators Miller, Currie, Kasemeyer, Astle, Brinkley, Colburn, DeGrange, Forehand, Garagiola, Jones, Klausmeier, Kramer, Lenett, Madaleno, McFadden, Middleton, Mooney, Munson, Peters, Pugh, Robey, Rosapepe, and ~~Zirkin~~ Zirkin, and Stone**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Job Creation and Recovery Tax Credit**

3 FOR the purpose of establishing the Job Creation and Recovery Tax Credit; providing
4 a credit against the State income tax for certain employers employing certain
5 individuals in certain qualified positions; defining certain terms; providing for
6 certification by the Department of Labor, Licensing, and Regulation of persons
7 eligible for the credit and of the maximum amount of credit for which a qualified
8 employer is eligible; limiting to a certain amount the credit each qualified
9 employer may receive; providing for a cap of the total aggregate amount of the
10 tax credit that the Department may approve; ~~allowing the credit as a credit~~
11 ~~against the payment of certain withholding taxes under certain circumstances;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 making the credit refundable under certain circumstances; requiring certain
2 reports; authorizing the adoption of certain regulations; making the provisions
3 of this Act severable; making this Act an emergency measure; and generally
4 relating to tax credits in connection with the employment of certain individuals
5 in certain qualified positions in the State and the Job Creation and Recovery
6 Tax Credit ~~program~~.

7 BY adding to
8 Article – Labor and Employment
9 Section 11–1101 through 11–1107 to be under the new subtitle “Subtitle 11. Job
10 Creation and Recovery Tax Credit”
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2009 Supplement)

13 BY adding to
14 Article – Tax – General
15 Section 10–728
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2009 Supplement)

18 Preamble

19 WHEREAS, The current economic situation in the State and the country has
20 left many Maryland workers unable to find new full–time employment; and

21 WHEREAS, Many of these workers are currently receiving unemployment
22 insurance benefits from the State or have exhausted those benefits; and

23 WHEREAS, There are employers in the State who would like to hire new
24 employees but face economic challenges in expanding their workforce at this time; and

25 WHEREAS, New jobs would reduce the burden of unemployment for Maryland
26 workers and their families; and

27 WHEREAS, Expanding the State workforce would stimulate the State’s
28 economy by enhancing personal spending and tax revenues associated with increased
29 employment; and

30 WHEREAS, Creating new jobs for workers currently receiving unemployment
31 insurance benefits would reduce the burden on the Unemployment Insurance Trust
32 Fund and the employers who contribute to that Fund; and

33 WHEREAS, A State tax credit program for employers based on the creation of
34 new jobs in the State would encourage and assist them in expanding their workforces
35 and in reducing the burden of unemployment on the State and its citizens; now,
36 therefore,

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

3 **Article – Labor and Employment**

4 **SUBTITLE 11. JOB CREATION AND RECOVERY TAX CREDIT.**

5 **11-1101.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “QUALIFIED EMPLOYEE” MEANS AN INDIVIDUAL WHO, AT THE TIME
9 OF HIRING:

10 (1) IS A RESIDENT OF THE STATE;

11 (2) (I) IS RECEIVING UNEMPLOYMENT INSURANCE BENEFITS;
12 OR

13 (II) HAS EXHAUSTED THE INDIVIDUAL’S UNEMPLOYMENT
14 INSURANCE BENEFITS WITHIN THE PAST 12 MONTHS; AND

15 (3) IS NOT EMPLOYED FULL TIME.

16 (C) “QUALIFIED EMPLOYER” MEANS A PERSON THAT IS:

17 (1) (I) CONDUCTING OR OPERATING A TRADE OR BUSINESS IN
18 THE STATE AND FILING MARYLAND INCOME TAX RETURNS; OR

19 (II) AN ORGANIZATION OPERATING IN THE STATE THAT IS
20 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE;
21 AND

22 (2) CERTIFIED IN ACCORDANCE WITH § ~~11-1103~~ 11-1102 OF THIS
23 SUBTITLE AS QUALIFYING FOR THE TAX CREDIT UNDER THIS SUBTITLE.

24 (D) (1) “QUALIFIED POSITION” MEANS A POSITION THAT:

25 (I) IS FULL TIME;

26 (II) REQUIRES OR IS EXPECTED TO REQUIRE THE SERVICES
27 OF AN EMPLOYEE FOR AN INDEFINITE DURATION AND WITHOUT INTERRUPTION
28 FOR A PERIOD OF 12 MONTHS OR MORE;

1 (III) IS LOCATED IN THE STATE; AND

2 (IV) IS NEWLY CREATED OR HAS BEEN VACANT FOR A
3 PERIOD OF AT LEAST 6 MONTHS AT THE TIME OF HIRING.

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

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

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

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

15 (IV) WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY
16 SHIFTED FROM AN EXISTING BUSINESS ENTITY TO ANOTHER BUSINESS ENTITY;
17 OR

18 (V) BY DISPLACING AN EXISTING EMPLOYEE.

19 11-1102.

20 (A) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL CERTIFY A
21 PERSON AS A QUALIFIED EMPLOYER ELIGIBLE FOR A TAX CREDIT UNDER THIS
22 SUBTITLE IF THE PERSON MEETS THE REQUIREMENTS OF THIS SECTION.

23 (B) TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SUBTITLE, A
24 PERSON MUST HIRE A QUALIFIED EMPLOYEE TO FILL A QUALIFIED POSITION
25 AND BEGIN EMPLOYMENT IN THAT POSITION BETWEEN ~~JANUARY 1, 2010~~, THE
26 EFFECTIVE DATE OF CHAPTER ___ (S.B. 106) OF THE ACTS OF THE GENERAL
27 ASSEMBLY OF 2010 AND DECEMBER 31, 2010.

28 (C) TO BE CERTIFIED AS A QUALIFIED EMPLOYER FOR A TAX CREDIT
29 UNDER THIS SUBTITLE, A PERSON SHALL SUBMIT TO THE DEPARTMENT AN
30 APPLICATION CERTIFIED AND EXECUTED UNDER THE PENALTY OF PERJURY
31 THAT SPECIFIES:

1 (1) THE NAME AND SOCIAL SECURITY NUMBER OF EACH
2 QUALIFIED EMPLOYEE;

3 (2) THE DATE OF HIRE OF EACH QUALIFIED EMPLOYEE, THE
4 WAGES PAID TO EACH QUALIFIED EMPLOYEE, THE DATE WAGES BEGAN TO BE
5 PAID TO EACH QUALIFIED EMPLOYEE, AND THE POSITION FOR WHICH EACH
6 QUALIFIED EMPLOYEE WAS HIRED;

7 (3) THE NUMBER OF QUALIFIED POSITIONS CREATED;

8 (4) THE EVIDENCE THAT THE EMPLOYER MEETS THE
9 REQUIREMENTS OF § 11-1101(C) OF THIS SUBTITLE;

10 (5) THE EVIDENCE THAT THE POSITION MEETS THE
11 REQUIREMENTS OF § 11-1101(D) OF THIS SUBTITLE; AND

12 (6) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY
13 REQUIRE.

14 (D) BASED ON THE INFORMATION PROVIDED TO THE DEPARTMENT
15 UNDER SUBSECTION (C) OF THIS SECTION, AND IN ACCORDANCE WITH THE
16 PROVISIONS OF SUBSECTION (E) OF THIS SECTION, WITHIN 60 DAYS AFTER
17 RECEIVING THE APPLICATION, THE SECRETARY OR THE SECRETARY'S
18 DESIGNEE SHALL CERTIFY THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR
19 WHICH A QUALIFIED EMPLOYER IS ELIGIBLE.

20 (E) (1) SUBJECT TO THE LIMITATIONS IN PARAGRAPHS (2), (3), AND
21 (4) OF THIS SUBSECTION, THE CREDIT EARNED UNDER THIS SECTION IS ~~\$3,000~~
22 \$5,000 MULTIPLIED BY THE NUMBER OF QUALIFIED EMPLOYEES HIRED BY THE
23 QUALIFIED EMPLOYER ~~DURING THE 2010 CALENDAR YEAR~~ BETWEEN THE
24 EFFECTIVE DATE OF CHAPTER (S.B. 106) OF THE ACTS OF THE GENERAL
25 ASSEMBLY OF 2010 AND DECEMBER 31, 2010.

26 (2) THE CREDIT EARNED BY A QUALIFIED EMPLOYER UNDER
27 THIS SUBTITLE MAY NOT EXCEED \$250,000.

28 (3) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE
29 DEPARTMENT UNDER THIS SUBTITLE MAY NOT EXCEED \$20,000,000.

30 (4) THE CREDITS WILL BE AVAILABLE AND CERTIFIED ON A
31 FIRST-COME, FIRST-SERVED BASIS AT THE TIME OF APPLICATION.

32 (F) FOR ANY QUALIFIED POSITION CERTIFIED UNDER SUBSECTION (D)
33 OF THIS SECTION THAT IS VACATED FOR ANY REASON, THE QUALIFIED

1 EMPLOYER MUST SUBMIT AN AMENDED APPLICATION UNDER SUBSECTION (C)
2 OF THIS SECTION TO RECEIVE THE TAX CREDIT FOR HIRING A REPLACEMENT
3 QUALIFIED EMPLOYEE FOR THAT VACATED POSITION.

4 (G) THE SECRETARY AND THE COMPTROLLER MAY JOINTLY ADOPT
5 REGULATIONS TO CARRY OUT THIS SUBTITLE AND THE PROVISIONS OF § 10-728
6 OF THE TAX – GENERAL ARTICLE.

7 11-1103.

8 (A) AFTER RECEIVING THE CERTIFICATION IN ACCORDANCE WITH
9 § 11-1102(D) OF THIS SUBTITLE, AND IN ACCORDANCE WITH § 11-1107 OF THIS
10 SUBTITLE, A QUALIFIED EMPLOYER MAY CLAIM AN INCOME TAX CREDIT IN THE
11 AMOUNT PROVIDED IN THAT CERTIFICATION.

12 (B) TO CLAIM THE CREDIT CERTIFIED UNDER § 11-1102(D) OF THIS
13 SUBTITLE, A QUALIFIED EMPLOYER SHALL SUBMIT TO THE COMPTROLLER:

14 (1) A TAX RETURN FOR THE TAXABLE YEAR TO WHICH THE
15 CERTIFICATION APPLIES, CLAIMING THE CREDIT; AND

16 (2) A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE
17 APPROVED CREDIT AMOUNT.

18 11-1104.

19 (A) (1) A QUALIFIED POSITION MUST REMAIN FILLED FOR A PERIOD
20 OF 1 YEAR AFTER THE QUALIFIED EMPLOYEE IS HIRED AND BEGINS
21 EMPLOYMENT.

22 (2) IF THE POSITION IS VACATED PRIOR TO THE EXPIRATION OF
23 THE 1-YEAR PERIOD, THE EMPLOYER SHALL IMMEDIATELY NOTIFY THE
24 DEPARTMENT OF THE VACANCY.

25 (B) IF A POSITION IS FILLED FOR LESS THAN THE REQUIRED 1-YEAR
26 PERIOD, THE EMPLOYER SHALL BE ENTITLED TO A PRO-RATA PORTION OF THE
27 TAX CREDIT BASED ON THE DURATION OF EMPLOYMENT.

28 11-1105.

29 (A) THE DEPARTMENT, THE COMPTROLLER, AND THE DEPARTMENT
30 OF BUSINESS AND ECONOMIC DEVELOPMENT MAY SHARE ANY INFORMATION
31 RECEIVED FROM A QUALIFIED EMPLOYER ABOUT ELIGIBILITY FOR A CREDIT

1 ALLOWED UNDER THIS SUBTITLE FOR THE PURPOSE OF ADMINISTERING THIS
2 TAX CREDIT.

3 (B) INFORMATION THAT IS RECEIVED UNDER SUBSECTION (A) OF THIS
4 SECTION IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS THAT APPLY
5 TO THE DEPARTMENT, THE COMPTROLLER, THE DEPARTMENT OF BUSINESS
6 AND ECONOMIC DEVELOPMENT, AND THE UNIT THAT RECEIVES THE
7 INFORMATION.

8 11-1106.

9 ON OR BEFORE APRIL 1, 2011, THE DEPARTMENT SHALL REPORT TO THE
10 GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
11 ARTICLE, THE GENERAL ASSEMBLY ON THE QUALIFIED EMPLOYERS CERTIFIED
12 AS ELIGIBLE FOR JOB CREATION AND RECOVERY TAX CREDITS ~~AND~~, THE
13 NUMBER OF ~~JOBS~~ QUALIFIED POSITIONS FOR WHICH THEY WERE CERTIFIED,
14 THE TOTAL AMOUNT OF CREDITS CERTIFIED FOR EACH QUALIFIED EMPLOYER,
15 AND THE TOTAL AMOUNT OF CREDITS CERTIFIED.

16 11-1107.

17 (A) (1) THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE:

18 ~~(1)~~ (I) MAY BE CLAIMED ONLY FOR INDIVIDUALS HIRED INTO
19 QUALIFIED POSITIONS FOR WHICH THEY BEGIN RECEIVING WAGES ON OR
20 AFTER ~~JANUARY 1, 2010,~~ THE EFFECTIVE DATE OF CHAPTER (S.B. 106) OF
21 THE ACTS OF THE GENERAL ASSEMBLY OF 2010 BUT ON OR BEFORE DECEMBER
22 31, 2010; AND

23 ~~(2)~~ ~~(I)~~ (II) EXCEPT AS OTHERWISE PROVIDED IN THIS
24 SUBSECTION, MUST BE CLAIMED ON THE QUALIFIED EMPLOYER'S 2010 OR 2011
25 STATE INCOME TAX RETURN.

26 ~~(II)~~ ~~1.~~ (2) IN DETERMINING WHICH YEAR OR YEARS TO
27 CLAIM THE CREDIT, THE QUALIFIED EMPLOYER SHALL CLAIM THE CREDIT FOR
28 EACH CALENDAR MONTH OF 2010 AS THAT MONTH CORRESPONDS TO THE
29 QUALIFIED EMPLOYER'S TAXABLE YEAR.

30 ~~2.~~ (3) IF THE QUALIFIED EMPLOYER'S 2009 TAX YEAR
31 INCLUDES 2010 CALENDAR MONTHS, THE QUALIFIED EMPLOYER SHALL CLAIM
32 THE CREDIT ON THE QUALIFYING EMPLOYER'S 2009 TAX RETURN FOR THOSE
33 2010 CALENDAR MONTHS CORRESPONDING TO THE QUALIFIED EMPLOYER'S
34 2009 TAXABLE YEAR.

1 10-728.

2 (A) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A STATE TAX
3 CREDIT AGAINST THE INCOME TAX AS PROVIDED UNDER TITLE 11, SUBTITLE 11
4 OF THE LABOR AND EMPLOYMENT ARTICLE.

5 (B) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF
6 THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER THIS
7 SUBSECTION;

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

11 ~~(2) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF~~
12 ~~TAXES THAT THE ORGANIZATION;~~

13 ~~(I) IS REQUIRED TO WITHHOLD FROM THE WAGES OF~~
14 ~~EMPLOYEES UNDER § 10-908 OF THIS TITLE; AND~~

15 ~~(II) IS REQUIRED TO PAY TO THE COMPTROLLER UNDER~~
16 ~~§ 10-906(A) OF THIS TITLE.~~

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
18 applicable to individuals hired and beginning work on or after ~~January 1, 2010,~~ *the*
19 *effective date of this Act* but on or before December 31, 2010.

20 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
21 Act or the application thereof to any person or circumstance is held invalid for any
22 reason in a court of competent jurisdiction, the invalidity does not affect other
23 provisions or any other application of this Act which can be given effect without the
24 invalid provision or application, and for this purpose the provisions of this Act are
25 declared severable.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
27 measure, is necessary for the immediate preservation of the public health or safety,
28 has been passed by a yea and nay vote supported by three-fifths of all the members
29 elected to each of the two Houses of the General Assembly, and shall take effect from
30 the date it is enacted.