

# SENATE BILL 468

Q3

0lr1844

---

By: **Senator Currie**

Introduced and read first time: February 1, 2010

Assigned to: Budget and Taxation

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Employment Opportunity Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax and insurance  
4 premium tax for certain wages paid and certain child care or transportation  
5 expenses incurred by certain business entities with respect to certain qualified  
6 employment opportunity employees; providing for the calculation and use of the  
7 credit; requiring a certain addition modification if a certain credit is claimed;  
8 prohibiting an employer from claiming the credit under certain circumstances;  
9 providing for the administration of the tax credits; defining certain terms;  
10 repealing a certain obsolete reference; providing for the application of this Act;  
11 and generally relating to a tax credit for certain wages paid and certain child  
12 care or transportation expenses incurred by certain business entities with  
13 respect to certain qualified employment opportunity employees.

14 BY repealing and reenacting, with amendments,  
15 Article – Tax – General  
16 Section 10–205(b)(2)  
17 Annotated Code of Maryland  
18 (2004 Replacement Volume and 2005 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article – Tax – General  
21 Section 10–306(b)(1)  
22 Annotated Code of Maryland  
23 (2004 Replacement Volume and 2005 Supplement)

24 BY adding to  
25 Article – Tax – General  
26 Section 10–704.3  
27 Annotated Code of Maryland  
28 (2004 Replacement Volume and 2009 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Insurance  
3 Section 6–105.1  
4 Annotated Code of Maryland  
5 (2003 Replacement Volume and 2009 Supplement)

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

8 **Article – Tax – General**

9 10–205.

10 (b) The addition under subsection (a) of this section includes the amount of a  
11 credit claimed under:

12 (2) § 10–704.3 of this title [or § 8–213 of this article] for wages paid  
13 and qualified child care or transportation expenses incurred with respect to qualified  
14 employment opportunity employees;

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, employment  
19 opportunity credit, disability credit, and qualified ex–felon employee credit);

20 **10–704.3.**

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
22 MEANINGS INDICATED.

23 (2) “BUSINESS ENTITY” MEANS:

24 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR  
25 BUSINESS IN MARYLAND; OR

26 (II) AN ORGANIZATION OPERATING IN MARYLAND THAT IS  
27 EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL  
28 REVENUE CODE.

29 (3) “QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES”  
30 MEANS:

1                   **(I) STATE REGULATED CHILD CARE EXPENSES THAT ARE**  
2 **INCURRED BY A BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYMENT**  
3 **OPPORTUNITY EMPLOYEE OF THE BUSINESS TO BE GAINFULLY EMPLOYED; OR**

4                   **(II) TRANSPORTATION EXPENSES THAT ARE INCURRED BY A**  
5 **BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYMENT OPPORTUNITY**  
6 **EMPLOYEE TO TRAVEL TO AND FROM WORK.**

7                   **(4) (I) “QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE”**  
8 **MEANS AN INDIVIDUAL WHO:**

9                               **1. IS A RESIDENT OF MARYLAND;**

10                              **2. FOR ANY 3 MONTHS DURING THE 18-MONTH**  
11 **PERIOD BEFORE THE INDIVIDUAL’S EMPLOYMENT WITH A BUSINESS ENTITY,**  
12 **WAS A RECIPIENT OF TEMPORARY CASH ASSISTANCE FROM THE STATE UNDER**  
13 **THE FAMILY INVESTMENT PROGRAM; AND**

14                              **3. FOR 6 MONTHS BEFORE THE INDIVIDUAL’S**  
15 **EMPLOYMENT WITH A BUSINESS ENTITY, WAS A MARYLAND RESIDENT.**

16                   **(II) “QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE”**  
17 **DOES NOT INCLUDE AN INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY OF THE**  
18 **RELATIONSHIPS SPECIFIED IN § 152(A)(1) THROUGH (8) OF THE INTERNAL**  
19 **REVENUE CODE TO, A PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY,**  
20 **MORE THAN 50% OF THE OWNERSHIP OF THE BUSINESS ENTITY.**

21                   **(5) “WAGES” MEANS WAGES, WITHIN THE MEANING OF § 51(C)(1),**  
22 **(2), AND (3) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO § 51(C)(4)**  
23 **OF THE INTERNAL REVENUE CODE THAT ARE PAID BY A BUSINESS ENTITY TO**  
24 **AN EMPLOYEE FOR SERVICES PERFORMED IN A TRADE OR BUSINESS OF THE**  
25 **EMPLOYER.**

26                   **(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A**  
27 **BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNTS DETERMINED**  
28 **UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION FOR THE WAGES AND**  
29 **QUALIFIED CHILD CARE OR TRANSPORTATION EXPENSES WITH RESPECT TO A**  
30 **QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE THAT ARE PAID IN THE**  
31 **TAXABLE YEAR FOR WHICH THE BUSINESS ENTITY CLAIMS THE CREDIT.**

32                   **(2) THE SAME TAX CREDIT CANNOT BE APPLIED MORE THAN**  
33 **ONCE AGAINST DIFFERENT TAXES BY THE SAME TAXPAYER.**

1           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
2 **SUBSECTION, FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH**  
3 **QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE, A CREDIT IS ALLOWED IN**  
4 **AN AMOUNT EQUAL TO:**

5                   **(I) 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO**  
6 **THE EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF**  
7 **EMPLOYMENT; AND**

8                   **(II) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO**  
9 **THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE DURING THE SECOND**  
10 **YEAR OF EMPLOYMENT.**

11           **(2) IF THE QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE**  
12 **HAS BEEN A RECIPIENT OF TEMPORARY CASH ASSISTANCE FROM THE STATE**  
13 **UNDER THE FAMILY INVESTMENT PROGRAM FOR AT LEAST 18 OF THE LAST 48**  
14 **MONTHS, WHETHER CONSECUTIVE OR NOT CONSECUTIVE, AND HAS BEEN**  
15 **EMPLOYED FOR A FULL YEAR BY A BUSINESS ENTITY CLAIMING THE CREDIT,**  
16 **THE CREDIT ALLOWED UNDER THIS SECTION IS AN AMOUNT EQUAL TO 40% OF**  
17 **UP TO THE FIRST \$10,000 IN WAGES PAID TO THE QUALIFIED EMPLOYMENT**  
18 **OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT.**

19           **(D) FOR EACH TAXABLE YEAR, FOR CHILD CARE PROVIDED OR PAID**  
20 **FOR BY A BUSINESS ENTITY FOR THE CHILDREN OF A QUALIFIED EMPLOYMENT**  
21 **OPPORTUNITY EMPLOYEE, OR TRANSPORTATION EXPENSES THAT ARE**  
22 **INCURRED BY A BUSINESS ENTITY TO ENABLE A QUALIFIED EMPLOYMENT**  
23 **OPPORTUNITY EMPLOYEE TO TRAVEL TO AND FROM WORK, A CREDIT IS**  
24 **ALLOWED IN AN AMOUNT EQUAL TO:**

25                   **(1) UP TO \$600 OF THE QUALIFIED CHILD CARE OR**  
26 **TRANSPORTATION EXPENSES INCURRED FOR EACH QUALIFIED EMPLOYMENT**  
27 **OPPORTUNITY EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND**

28                   **(2) UP TO \$500 OF THE QUALIFIED CHILD CARE OR**  
29 **TRANSPORTATION EXPENSES INCURRED FOR EACH QUALIFIED EMPLOYMENT**  
30 **OPPORTUNITY EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.**

31           **(E) (1) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS**  
32 **SECTION FOR AN EMPLOYEE:**

33                   **(I) WHO IS HIRED TO REPLACE A LAID-OFF EMPLOYEE OR**  
34 **TO REPLACE AN EMPLOYEE WHO IS ON STRIKE; OR**

1                   **(II) FOR WHOM THE BUSINESS ENTITY SIMULTANEOUSLY**  
2 **RECEIVES FEDERAL OR STATE EMPLOYMENT TRAINING BENEFITS.**

3                   **(2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS**  
4 **SECTION UNTIL IT HAS NOTIFIED THE APPROPRIATE GOVERNMENT AGENCY**  
5 **THAT A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE HAS BEEN HIRED.**

6                   **(3) A BUSINESS ENTITY MAY CLAIM A CREDIT IN THE AMOUNT**  
7 **PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION FOR AN EMPLOYEE WHOSE**  
8 **EMPLOYMENT LASTS LESS THAN 1 YEAR IF THE EMPLOYEE:**

9                   **(I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE**  
10 **EMPLOYER;**

11                   **(II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A**  
12 **DEATH OR DISABILITY; OR**

13                   **(III) IS TERMINATED FOR CAUSE.**

14                   **(4) (I) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT**  
15 **UNDER SUBSECTION (C)(1) OF THIS SECTION FOR AN EMPLOYEE WHO IS**  
16 **EMPLOYED FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE VOLUNTARILY**  
17 **TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER JOB, THE**  
18 **BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 30% OF UP TO THE FIRST \$6,000**  
19 **OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF EMPLOYMENT.**

20                   **(II) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT**  
21 **UNDER SUBSECTION (C)(1) OF THIS SECTION FOR AN EMPLOYEE WHO IS**  
22 **EMPLOYED FOR LESS THAN 1 YEAR FOR A REASON OTHER THAN THAT**  
23 **DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AMOUNT OF THE**  
24 **CREDIT SHALL BE REDUCED BY THE PROPORTION OF A YEAR THAT THE**  
25 **EMPLOYEE DID NOT WORK.**

26                   **(F) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**  
27 **YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY**  
28 **FOR THAT TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A**  
29 **CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

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

31                   **(2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE**  
32 **TAXABLE YEAR IN WHICH THE WAGES OR QUALIFIED CHILD CARE OR**  
33 **TRANSPORTATION EXPENSES FOR WHICH THE CREDIT IS CLAIMED ARE PAID.**

1           **(G) IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT**  
2 **MUST MAKE THE ADDITION REQUIRED IN § 10-205(B)(2) OR § 10-306(B)(1) OF**  
3 **THIS TITLE.**

4           **(H) THE COMPTROLLER, IN COOPERATION WITH THE DEPARTMENT OF**  
5 **LABOR, LICENSING, AND REGULATION AND THE DEPARTMENT OF HUMAN**  
6 **RESOURCES, SHALL ADMINISTER THE CREDIT UNDER THIS SECTION.**

7           **(I) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE**  
8 **DEPARTMENT OF HUMAN RESOURCES, AND THE COMPTROLLER SHALL**  
9 **REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE**  
10 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY BEFORE JANUARY 15 OF**  
11 **EACH YEAR ON:**

12                   **(1) MARKETING ACTIVITIES FOR THE CREDIT UNDER THIS**  
13 **SECTION;**

14                   **(2) THE COORDINATION OF INTERAGENCY ACTIVITIES;**

15                   **(3) THE NUMBER OF BUSINESS ENTITIES WHO HIRED QUALIFIED**  
16 **EMPLOYMENT OPPORTUNITY EMPLOYEES DURING THE PRECEDING YEAR,**  
17 **INCLUDING A SEPARATE ACCOUNTING OF THE NUMBER OF ORGANIZATIONS**  
18 **THAT ARE EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE**  
19 **INTERNAL REVENUE CODE;**

20                   **(4) THE NUMBER OF QUALIFIED EMPLOYMENT OPPORTUNITY**  
21 **EMPLOYEES:**

22                           **(I) HIRED IN EACH BUSINESS SECTOR FOR THE PRECEDING**  
23 **YEAR; AND**

24                           **(II) HIRED DURING THE PRECEDING YEAR AND EMPLOYED**  
25 **FOR LESS THAN 1 YEAR;**

26                   **(5) A SUMMARY OF THE WAGES PAID TO QUALIFIED EMPLOYMENT**  
27 **OPPORTUNITY EMPLOYEES FOR THE PRECEDING YEAR;**

28                   **(6) THE TOTAL NUMBER AND AMOUNT OF JOB CERTIFICATIONS**  
29 **ISSUED AND CREDITS CLAIMED DURING THE PRECEDING YEAR AND THE**  
30 **NUMBER AND AMOUNT OF JOB CERTIFICATIONS ISSUED AND CREDITS CLAIMED**  
31 **DURING THE PRECEDING YEAR FOR QUALIFIED EMPLOYMENT OPPORTUNITY**  
32 **EMPLOYEES ELIGIBLE FOR THE CREDIT UNDER SUBSECTION (C)(2) OF THIS**  
33 **SECTION;**

1           **(7) THE NUMBER AND AMOUNT OF CREDITS CLAIMED FOR CHILD**  
2 **CARE OR TRANSPORTATION EXPENSES INCURRED, INCLUDING A SUMMARY OF**  
3 **THE TYPES OF TRANSPORTATION EXPENSES INCURRED BY BUSINESS ENTITIES;**  
4 **AND**

5           **(8) THE NUMBER OF QUALIFIED EMPLOYMENT OPPORTUNITY**  
6 **EMPLOYEES EMPLOYED FOR:**

7                   **(I) MORE THAN 1 YEAR BUT LESS THAN 2 YEARS;**

8                   **(II) MORE THAN 2 YEARS BUT LESS THAN 3 YEARS; AND**

9                   **(III) 3 YEARS OR MORE.**

10           **(J) (1) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §**  
11 **501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT**  
12 **UNDER THIS SECTION:**

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

16                   **(II) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER**  
17 **OF TAXES THAT THE ORGANIZATION:**

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

20                           **2. IS REQUIRED TO PAY TO THE COMPTROLLER**  
21 **UNDER § 10-906(A) OF THIS TITLE.**

22           **(2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY**  
23 **TAXABLE YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE**  
24 **PAYABLE BY THE ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES**  
25 **THAT THE ORGANIZATION HAS WITHHELD FROM THE WAGES OF EMPLOYEES**  
26 **AND IS REQUIRED TO PAY TO THE COMPTROLLER UNDER § 10-906(A) OF THIS**  
27 **TITLE FOR THE TAXABLE YEAR, THE ORGANIZATION MAY APPLY THE EXCESS AS**  
28 **A CREDIT UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION IN**  
29 **SUCCEEDING TAXABLE YEARS FOR THE CARRYFORWARD PERIOD PROVIDED IN**  
30 **SUBSECTION (F) OF THIS SECTION.**

31           **(3) THE COMPTROLLER SHALL ADOPT REGULATIONS TO**  
32 **PROVIDE PROCEDURES FOR CLAIMING AND APPLYING CREDITS AUTHORIZED**  
33 **UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

1

**Article – Insurance**2 **6–105.1.**

3       **AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX PAYABLE**  
4 **UNDER THIS SUBTITLE FOR WAGES PAID TO A QUALIFIED EMPLOYMENT**  
5 **OPPORTUNITY EMPLOYEE AND FOR CHILD CARE OR TRANSPORTATION**  
6 **PROVIDED OR PAID FOR BY THE INSURER FOR A QUALIFIED EMPLOYMENT**  
7 **OPPORTUNITY EMPLOYEE AS PROVIDED UNDER § 10–704.3 OF THE TAX –**  
8 **GENERAL ARTICLE.**

9       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 July 1, 2010, and shall be applicable to all taxable years beginning after December 31,  
11 2009.