

SENATE BILL 633

Q3, F1

4r1248
CF 4r2277

By: **Senators DeGrange, Astle, Brinkley, Colburn, Currie, Dyson, Getty, Glassman, Hershey, Jacobs, Kittleman, Klausmeier, Mathias, McFadden, Middleton, Miller, Muse, Peters, Reilly, Simonaire, and Stone**

Introduced and read first time: January 30, 2014

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Education Credit**

3 FOR the purpose of allowing a credit against the State income tax for contributions
4 made to certain student assistance organizations; requiring the Department of
5 Business and Economic Development to administer the tax credit; requiring an
6 entity to submit an application to be a student assistance organization by a
7 certain date each year; requiring a student assistance organization to meet
8 certain qualifications; requiring a business entity to submit a certain
9 application within a certain time period and to make a contribution to a student
10 assistance organization and to provide certain notice within a certain time
11 period; requiring the Department to adopt certain regulations; requiring the
12 Department to approve certain applications within a certain time period and in
13 a certain manner; requiring the Department to rescind certain tax credit
14 certificates if certain notice is not provided within a certain time period;
15 providing limits on the amount of certain tax credits and the aggregate amount
16 of tax credits that may be approved by the Department in a calendar year;
17 establishing the Maryland Education Tax Credit Reserve Fund; authorizing the
18 Governor to include an appropriation to the Fund in the annual budget bill and
19 providing that the appropriation may not exceed a certain amount; requiring
20 the Comptroller to transfer certain amounts from the Fund to the General Fund
21 under certain circumstances; providing that certain unused tax credits may not
22 be carried forward; requiring the Department to publish and update a certain
23 list in a certain manner each year and to submit a certain report by a certain
24 date each year; requiring a certain addition modification under the Maryland
25 income tax if a certain tax credit is claimed; defining certain terms; providing
26 for the application of this Act; and generally relating to a State income tax
27 credit for contributions made to certain student assistance organizations.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Tax – General
3 Section 10–205(a) and 10–306(a)
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2013 Supplement)

6 BY adding to
7 Article – Tax – General
8 Section 10–205(l), 10–306(g), and 10–736
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2013 Supplement)

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

13 **Article – Tax – General**

14 10–205.

15 (a) In addition to the modification under § 10–204 of this subtitle, the
16 amounts under this section are added to the federal adjusted gross income of a
17 resident to determine Maryland adjusted gross income.

18 **(L) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
19 **THE AMOUNT OF A CONTRIBUTION MADE TO A STUDENT ASSISTANCE**
20 **ORGANIZATION FOR WHICH A CREDIT IS CLAIMED UNDER § 10–736 OF THIS**
21 **TITLE.**

22 10–306.

23 (a) In addition to the modification under § 10–305 of this subtitle, the
24 amounts under this section are added to the federal taxable income of a corporation to
25 determine Maryland modified income.

26 **(G) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
27 **THE AMOUNT OF A CONTRIBUTION MADE TO A STUDENT ASSISTANCE**
28 **ORGANIZATION FOR WHICH A CREDIT IS CLAIMED UNDER § 10–736 OF THIS**
29 **TITLE.**

30 **10–736.**

31 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
32 **MEANINGS INDICATED.**

33 **(2) “BUSINESS ENTITY” MEANS:**

1 **(I) A PERSON CONDUCTING OR OPERATING A TRADE OR**
2 **BUSINESS IN MARYLAND; OR**

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

6 **(3) “CONTRIBUTION” MEANS A MONETARY DONATION.**

7 **(4) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND**
8 **ECONOMIC DEVELOPMENT.**

9 **(5) “ELIGIBLE SCHOOL” MEANS:**

10 **(I) A PUBLIC PREKINDERGARTEN PROGRAM, AN**
11 **ELEMENTARY PUBLIC SCHOOL, OR A SECONDARY PUBLIC SCHOOL; OR**

12 **(II) A NONPUBLIC PREKINDERGARTEN PROGRAM, AN**
13 **ELEMENTARY NONPUBLIC SCHOOL, OR A SECONDARY NONPUBLIC SCHOOL**
14 **THAT:**

15 **1. HOLDS A CERTIFICATE OF APPROVAL FROM OR IS**
16 **REGISTERED WITH THE STATE BOARD OF EDUCATION;**

17 **2. DOES NOT CHARGE TUITION THAT IS GREATER**
18 **THAN THE STATEWIDE AVERAGE PER PUPIL EXPENDITURE BY THE LOCAL**
19 **EDUCATION AGENCIES CALCULATED BY THE DEPARTMENT WITH EXCEPTIONS**
20 **FOR SPECIAL EDUCATION STUDENTS DETERMINED BY THE DEPARTMENT TO BE**
21 **APPROPRIATE; AND**

22 **3. ADMINISTERS A NATIONALLY ACKNOWLEDGED**
23 **ACHIEVEMENT TEST TO THE STUDENTS.**

24 **(6) “PREKINDERGARTEN PROGRAM” MEANS A**
25 **PREKINDERGARTEN EDUCATION PROGRAM THAT HAS OBTAINED A LICENSE,**
26 **LETTER OF COMPLIANCE, OR CERTIFICATE OF APPROVAL FROM THE STATE**
27 **BOARD OF EDUCATION.**

28 **(7) (I) “QUALIFIED EDUCATION EXPENSES” MEANS QUALIFIED**
29 **ELEMENTARY AND SECONDARY EDUCATION EXPENSES AS DEFINED IN §**
30 **530(B)(3)(A) OF THE INTERNAL REVENUE CODE.**

1 **(II) “QUALIFIED EDUCATION EXPENSES” INCLUDE**
2 **EXPENSES FOR:**

- 3 1. **ACADEMIC TUTORING;**
4 2. **BOOKS, SUPPLIES, AND OTHER EQUIPMENT;**
5 3. **COMPUTER TECHNOLOGY, EQUIPMENT, OR**
6 **INTERNET ACCESS;**
7 4. **SPECIAL NEEDS SERVICES;**
8 5. **TRANSPORTATION;**
9 6. **TUITION AND FEES; OR**
10 7. **UNIFORMS THAT ARE REQUIRED BY AN ELIGIBLE**
11 **SCHOOL.**

12 **(8) “STUDENT ASSISTANCE ORGANIZATION” MEANS AN ENTITY**
13 **THAT:**

14 **(I) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE**
15 **INTERNAL REVENUE CODE;**

16 **(II) PROVIDES FINANCIAL ASSISTANCE FOR QUALIFIED**
17 **EDUCATION EXPENSES TO STUDENTS ATTENDING ELIGIBLE SCHOOLS IN THE**
18 **STATE; AND**

19 **(III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF**
20 **THIS SECTION.**

21 **(B) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, A**
22 **BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN**
23 **AMOUNT EQUAL TO 60% OF A CONTRIBUTION MADE TO A STUDENT ASSISTANCE**
24 **ORGANIZATION.**

25 **(2) A CREDIT CLAIMED BY A BUSINESS ENTITY UNDER THIS**
26 **SECTION MAY NOT EXCEED \$200,000 IN EACH TAXABLE YEAR.**

27 **(C) (1) TO QUALIFY AS A STUDENT ASSISTANCE ORGANIZATION, AN**
28 **ENTITY SHALL:**

1 **(I) APPLY TO THE DEPARTMENT ON OR BEFORE**
2 **DECEMBER 1 OF EACH YEAR;**

3 **(II) PROVIDE FINANCIAL ASSISTANCE FOR QUALIFIED**
4 **EDUCATION EXPENSES TO STUDENTS ATTENDING ELIGIBLE SCHOOLS;**

5 **(III) CONTRIBUTE OR IRREVOCABLY ENCUMBER AT LEAST**
6 **90% OF ANNUAL CASH RECEIPTS RECEIVED AS THE RESULT OF CONTRIBUTIONS**
7 **APPROVED FOR TAX CREDITS UNDER THIS SECTION TOWARD FINANCIAL**
8 **ASSISTANCE FOR QUALIFIED EDUCATION EXPENSES TO STUDENTS AT ELIGIBLE**
9 **SCHOOLS AS PROVIDED UNDER THIS SECTION;**

10 **(IV) PROVIDE FINANCIAL ASSISTANCE FOR QUALIFIED**
11 **EDUCATION EXPENSES ON A PRIORITY BASIS FIRST TO STUDENT APPLICANTS**
12 **WHO ARE ELIGIBLE FOR FREE AND REDUCED PRICE MEALS BASED ON**
13 **ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE UNITED STATES**
14 **DEPARTMENT OF AGRICULTURE AND THEN TO OTHER STUDENT APPLICANTS**
15 **BASED ON FINANCIAL NEED;**

16 **(V) SUBMIT TO THE DEPARTMENT THE APPLICATION AND**
17 **REVIEW PROCESS FOR ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR QUALIFIED**
18 **EDUCATION EXPENSES BASED ON DEMONSTRATED FINANCIAL NEED; AND**

19 **(VI) ON OR BEFORE JANUARY 1 OF EACH YEAR, SUBMIT**
20 **VERIFICATION TO THE DEPARTMENT THAT ALL REQUIREMENTS FOR**
21 **ELIGIBILITY UNDER THIS PARAGRAPH HAVE BEEN MET IN THE PRIOR**
22 **CALENDAR YEAR.**

23 **(2) IN THE APPLICATION REQUIRED UNDER PARAGRAPH (1) OF**
24 **THIS SUBSECTION, A STUDENT ASSISTANCE ORGANIZATION SHALL STATE IF THE**
25 **ORGANIZATION WILL PROVIDE FINANCIAL ASSISTANCE FOR QUALIFIED**
26 **EDUCATION EXPENSES TO:**

27 **(I) STUDENTS AT ELIGIBLE SCHOOLS THAT ARE PUBLIC; OR**

28 **(II) STUDENTS AT ELIGIBLE SCHOOLS THAT ARE**
29 **NONPUBLIC.**

30 **(D) (1) AT LEAST 45 DAYS PRIOR TO MAKING A CONTRIBUTION TO A**
31 **STUDENT ASSISTANCE ORGANIZATION, A BUSINESS ENTITY SHALL APPLY TO**
32 **THE DEPARTMENT FOR AN INITIAL TAX CREDIT CERTIFICATE.**

1 **(2) THE APPLICATION FOR AN INITIAL TAX CREDIT CERTIFICATE**
2 **SHALL IDENTIFY IF THE STUDENT ASSISTANCE ORGANIZATION PROVIDES**
3 **FINANCIAL ASSISTANCE FOR QUALIFIED EDUCATION EXPENSES TO:**

4 **(I) STUDENTS AT ELIGIBLE SCHOOLS THAT ARE PUBLIC; OR**

5 **(II) STUDENTS AT ELIGIBLE SCHOOLS THAT ARE**
6 **NONPUBLIC.**

7 **(E) THE DEPARTMENT SHALL:**

8 **(1) ADOPT REGULATIONS TO IMPLEMENT THIS SECTION,**
9 **INCLUDING THE METHOD FOR REPORTING BY STUDENT ASSISTANCE**
10 **ORGANIZATIONS TO ENSURE COMPLIANCE WITH THIS SECTION;**

11 **(2) APPROVE ALL APPLICATIONS FOR TAX CREDITS UNDER THIS**
12 **SECTION ON A FIRST-COME, FIRST-SERVED BASIS;**

13 **(3) WITHIN 60 DAYS AFTER RECEIPT, APPROVE OR REJECT AN**
14 **ENTITY'S APPLICATION TO BECOME A STUDENT ASSISTANCE ORGANIZATION;**

15 **(4) WITHIN 45 DAYS AFTER RECEIVING AN APPLICATION, ISSUE**
16 **AN INITIAL TAX CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION**
17 **STATING THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR WHICH A BUSINESS**
18 **ENTITY IS ELIGIBLE OR PROVIDE NOTICE OF REJECTION OF THE APPLICATION**
19 **THAT CONTAINS AN EXPLANATION OF THE REASON FOR REJECTION;**

20 **(5) WITHIN 45 DAYS AFTER RECEIVING NOTICE OF A**
21 **CONTRIBUTION MADE TO A STUDENT ASSISTANCE ORGANIZATION, ISSUE A**
22 **FINAL TAX CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION; AND**

23 **(6) PUBLISH AN ANNUAL LIST OF ALL STUDENT ASSISTANCE**
24 **ORGANIZATIONS APPROVED BY THE DEPARTMENT.**

25 **(F) (1) AFTER THE DEPARTMENT HAS ISSUED AN INITIAL TAX**
26 **CREDIT CERTIFICATE UNDER THIS SECTION, THE BUSINESS ENTITY SHALL HAVE**
27 **90 DAYS TO MAKE A CONTRIBUTION TO A STUDENT ASSISTANCE ORGANIZATION**
28 **UNDER THIS SECTION.**

29 **(2) WITHIN 60 DAYS AFTER MAKING A CONTRIBUTION TO A**
30 **STUDENT ASSISTANCE ORGANIZATION, A BUSINESS ENTITY SHALL PROVIDE**
31 **NOTICE TO THE DEPARTMENT OF THE CONTRIBUTION AND THE AMOUNT OF**
32 **THE CONTRIBUTION.**

1 **(3) IF A BUSINESS ENTITY FAILS TO MAKE A CONTRIBUTION TO A**
2 **STUDENT ASSISTANCE ORGANIZATION WITHIN 90 DAYS AFTER RECEIVING AN**
3 **INITIAL TAX CREDIT CERTIFICATE, THE DEPARTMENT SHALL RESCIND THE**
4 **INITIAL TAX CREDIT CERTIFICATE.**

5 **(G) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE**
6 **MARYLAND EDUCATION TAX CREDIT RESERVE FUND ESTABLISHED UNDER**
7 **PARAGRAPH (2) OF THIS SUBSECTION.**

8 **(2) (I) THERE IS A MARYLAND EDUCATION TAX CREDIT**
9 **RESERVE FUND THAT IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS**
10 **NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT**
11 **ARTICLE.**

12 **(II) THE MONEY IN THE RESERVE FUND SHALL BE**
13 **INVESTED AND REINVESTED BY THE STATE TREASURER, AND INTEREST AND**
14 **EARNINGS SHALL BE CREDITED TO THE GENERAL FUND.**

15 **(3) (I) EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
16 **SUBSECTION, THE DEPARTMENT MAY NOT ISSUE INITIAL TAX CREDIT**
17 **CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE**
18 **THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL**
19 **YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.**

20 **(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL**
21 **TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE**
22 **AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY**
23 **EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED**
24 **UNDER INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT YEAR.**

25 **(III) IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL**
26 **TAX CREDIT CERTIFICATES APPROVED FOR ELIGIBLE SCHOOLS THAT ARE**
27 **PUBLIC SCHOOLS IN A CALENDAR YEAR TOTAL LESS THAN 40% OF THE AMOUNT**
28 **APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, THE EXCESS**
29 **MAY BE USED TO APPROVE INITIAL TAX CREDIT CERTIFICATES FOR ELIGIBLE**
30 **SCHOOLS THAT ARE NONPUBLIC SCHOOLS DURING THE NEXT CALENDAR YEAR.**

31 **(IV) FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED**
32 **FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW**
33 **OTHER THAN UNDER PARAGRAPH (6) OF THIS SUBSECTION, THE MAXIMUM**
34 **CREDIT AMOUNTS IN THE AGGREGATE FOR WHICH THE DEPARTMENT MAY**

1 ISSUE INITIAL TAX CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT
2 TRANSFERRED.

3 (4) (I) FOR EACH FISCAL YEAR, THE GOVERNOR MAY INCLUDE
4 IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND.

5 (II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT
6 THE APPROPRIATION UNDER THIS PARAGRAPH MAY NOT EXCEED \$15,000,000
7 IN ANY FISCAL YEAR.

8 (5) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE
9 STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT
10 REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS
11 APPROVED BY THE GENERAL ASSEMBLY.

12 (6) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY
13 APPROPRIATED IN THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

14 (II) 1. WITHIN 15 DAYS AFTER THE END OF EACH
15 CALENDAR QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS
16 TO EACH FINAL TAX CREDIT CERTIFICATE ISSUED DURING THE PREVIOUS
17 QUARTER OF:

18 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE
19 INITIAL TAX CREDIT CERTIFICATE; AND

20 B. THE FINAL CERTIFIED TAX CREDIT AMOUNT.

21 2. ON NOTIFICATION THAT A FINAL TAX CREDIT HAS
22 BEEN ISSUED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO
23 THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FROM
24 THE RESERVE FUND TO THE GENERAL FUND.

25 (7) IF AN INITIAL TAX CREDIT CERTIFICATE HAS BEEN
26 RESCINDED BY THE DEPARTMENT, THE DEPARTMENT MAY APPROVE
27 ADDITIONAL INITIAL TAX CREDIT CERTIFICATES FOR OTHER BUSINESS
28 ENTITIES THAT MAY NOT EXCEED THE AMOUNT OF TAX CREDITS APPROVED IN
29 THE INITIAL TAX CREDIT CERTIFICATES THAT WERE RESCINDED.

30 (8) IN EACH CALENDAR YEAR, THE DEPARTMENT MAY NOT
31 APPROVE INITIAL TAX CREDIT CERTIFICATES THAT:

1 **(I) EXCEED 60% OF THE TOTAL AMOUNT APPROPRIATED**
2 **TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE BUDGET AS**
3 **APPROVED BY THE GENERAL ASSEMBLY FOR CONTRIBUTIONS TO STUDENT**
4 **ASSISTANCE ORGANIZATIONS THAT PROVIDE FINANCIAL ASSISTANCE FOR**
5 **QUALIFIED EDUCATION EXPENSES TO STUDENTS AT ELIGIBLE SCHOOLS THAT**
6 **ARE NONPUBLIC; OR**

7 **(II) EXCEED 40% OF THE TOTAL AMOUNT APPROPRIATED**
8 **TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE BUDGET AS**
9 **APPROVED BY THE GENERAL ASSEMBLY FOR CONTRIBUTIONS TO STUDENT**
10 **ASSISTANCE ORGANIZATIONS THAT PROVIDE FINANCIAL ASSISTANCE FOR**
11 **QUALIFIED EDUCATION EXPENSES TO STUDENTS AT ELIGIBLE SCHOOLS THAT**
12 **ARE PUBLIC.**

13 **(H) ANY UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER**
14 **TO ANY OTHER TAXABLE YEAR.**

15 **(I) (1) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE**
16 **DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246**
17 **OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE TAX**
18 **CREDITS APPROVED UNDER THIS SECTION.**

19 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
20 **SUBSECTION SHALL INCLUDE FOR EACH BUSINESS ENTITY APPROVED TO**
21 **RECEIVE A FINAL TAX CREDIT CERTIFICATE IN THE PRIOR CALENDAR YEAR:**

22 **(I) THE NAME AND ADDRESS OF THE STUDENT ASSISTANCE**
23 **ORGANIZATION RECEIVING THE CONTRIBUTION; AND**

24 **(II) THE AMOUNT OF THE APPROVED FINAL CREDIT**
25 **CERTIFICATE.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,
28 2013.