

HOUSE BILL 1643

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By: **Delegates Frick, Barkley, Barve, Carr, Frush, Gutierrez, Healey, Jones, Kaiser, Lam, R. Lewis, Lierman, McComas, McIntosh, Pendergrass, and Turner**

Introduced and read first time: February 9, 2018

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Credit for Contributions to the Maryland Excellence in Education**
3 **Fund**

4 FOR the purpose of allowing a certain taxpayer to claim a certain credit against the State
5 income tax for certain contributions during the taxable year to the Maryland
6 Excellence in Education Fund; requiring a certain reduction of itemized deductions
7 if the credit is claimed under certain circumstances; providing that the credit may
8 not exceed the State income tax for that taxable year and that any unused credit
9 may be carried forward to succeeding taxable years, subject to certain limitations;
10 establishing the Maryland Excellence in Education Fund as a special, nonlapsing
11 fund; specifying the purpose of the Fund; requiring the State Department of
12 Education and the Maryland Higher Education Commission, in consultation with
13 the Interagency Committee on School Construction, to administer the Fund and
14 adopt certain regulations; requiring the State Treasurer to hold the Fund and the
15 Comptroller to account for the Fund; specifying the contents of the Fund; specifying
16 the purpose for which the Fund may be used; providing for the investment of money
17 in and expenditures from the Fund; providing for the termination of this Act, subject
18 to a certain contingency; defining certain terms; providing for the application of this
19 Act; and generally relating to a credit against the State income tax for contributions
20 to the Maryland Excellence in Education Fund.

21 BY repealing and reenacting, with amendments,
22 Article – Tax – General
23 Section 10–218
24 Annotated Code of Maryland
25 (2016 Replacement Volume and 2017 Supplement)

26 BY adding to
27 Article – Tax – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 10–746
2 Annotated Code of Maryland
3 (2016 Replacement Volume and 2017 Supplement)

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

6 **Article – Tax – General**

7 10–218.

8 (a) Only an individual who itemizes deductions on the individual’s federal income
9 tax return may elect to itemize deductions on the individual’s income tax return.

10 (b) An individual who elects to itemize deductions is allowed as a deduction the
11 sum of the individual’s federal itemized deductions:

12 (1) limited and reduced as required under the Internal Revenue Code;

13 (2) further reduced by any amount deducted under § 170 of the Internal
14 Revenue Code for:

15 (I) contributions of a preservation or conservation easement for
16 which a credit is claimed under § 10–723 of this title; and

17 (II) **CONTRIBUTIONS TO THE MARYLAND EXCELLENCE IN**
18 **EDUCATION FUND FOR WHICH A CREDIT IS CLAIMED UNDER § 10–746 OF THIS**
19 **TITLE; AND**

20 (3) further reduced by the amount claimed as taxes on income paid to a
21 state or political subdivision of a state, after subtracting a pro rata portion of the reduction
22 to itemized deductions required under § 68 of the Internal Revenue Code.

23 **10–746.**

24 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
25 **INDICATED.**

26 (2) **“CONTRIBUTION” MEANS AN IRREVOCABLE GIFT OF CASH OR**
27 **CASH EQUIVALENT.**

28 (3) **“FUND” MEANS THE MARYLAND EXCELLENCE IN EDUCATION**
29 **FUND ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.**

30 (4) **“TAXPAYER” MEANS A RESIDENT WHO:**

1 **(I) ELECTS TO ITEMIZE DEDUCTIONS ON THE RESIDENT'S**
2 **FEDERAL INCOME TAX RETURN; AND**

3 **(II) CLAIMS THE DEDUCTION FOR STATE AND LOCAL INCOME**
4 **TAXES UNDER § 164 OF THE INTERNAL REVENUE CODE.**

5 **(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR THE**
6 **TAXABLE YEAR IN WHICH A TAXPAYER MAKES A CONTRIBUTION TO THE FUND, THE**
7 **TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT**
8 **EQUAL TO 95% OF THE TAXPAYER'S CONTRIBUTION TO THE FUND.**

9 **(2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED**
10 **THE AMOUNT BY WHICH THE TAXPAYER'S ITEMIZED DEDUCTION FOR STATE AND**
11 **LOCAL AND FOREIGN REAL PROPERTY TAXES AND STATE AND LOCAL PERSONAL**
12 **PROPERTY TAXES ARE REDUCED ON THE TAXPAYER'S FEDERAL INCOME TAX**
13 **RETURN AS A RESULT OF THE LIMITATION UNDER § 164(B)(6)(B) OF THE INTERNAL**
14 **REVENUE CODE.**

15 **(3) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**
16 **YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, ANY UNUSED**
17 **CREDIT UNDER THIS SECTION MAY BE CARRIED FORWARD AND APPLIED FOR**
18 **SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

19 **(I) THE FULL AMOUNT OF THE CREDIT IS USED; OR**

20 **(II) THE EXPIRATION OF THE FIFTH YEAR AFTER THE TAXABLE**
21 **YEAR FOR WHICH THE CREDIT WAS ALLOWED.**

22 **(C) (1) THERE IS A MARYLAND EXCELLENCE IN EDUCATION FUND.**

23 **(2) THE PURPOSE OF THE FUND IS:**

24 **(I) TO ACCEPT CONTRIBUTIONS FOR EXCLUSIVELY PUBLIC**
25 **PURPOSES AS SPECIFIED UNDER § 170 OF THE INTERNAL REVENUE CODE; AND**

26 **(II) TO BE USED AS SPECIFIED IN PARAGRAPH (7) OF THIS**
27 **SUBSECTION.**

28 **(3) THE STATE DEPARTMENT OF EDUCATION AND THE MARYLAND**
29 **HIGHER EDUCATION COMMISSION, IN CONSULTATION WITH THE INTERAGENCY**
30 **COMMITTEE ON SCHOOL CONSTRUCTION, SHALL JOINTLY ADMINISTER THE FUND.**

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

3 **(5) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
4 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

5 **(6) THE FUND CONSISTS OF:**

6 **(I) CONTRIBUTIONS TO THE FUND UNDER THIS SECTION; AND**

7 **(II) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
8 **FOR THE BENEFIT OF THE FUND.**

9 **(7) THE FUND MAY BE USED ONLY FOR EXCLUSIVELY PUBLIC**
10 **PURPOSES AS SPECIFIED UNDER § 170 OF THE INTERNAL REVENUE CODE RELATED**
11 **TO:**

12 **(I) PUBLIC SCHOOL CONSTRUCTION PROJECTS;**

13 **(II) PUBLIC PRIMARY AND SECONDARY EDUCATION PROGRAMS;**

14 **OR**

15 **(III) SCHOLARSHIPS AT INSTITUTIONS OF HIGHER EDUCATION**
16 **FOR LOW-INCOME STUDENTS.**

17 **(8) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
18 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

19 **(II) ANY INTEREST EARNINGS OF THE FUND SHALL BE**
20 **CREDITED TO THE GENERAL FUND OF THE STATE.**

21 **(9) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**
22 **ACCORDANCE WITH THE STATE BUDGET.**

23 **(10) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS**
24 **NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE**
25 **APPROPRIATED FOR THE PURPOSES SPECIFIED IN PARAGRAPH (7) OF THIS**
26 **SUBSECTION.**

27 **(D) THE STATE DEPARTMENT OF EDUCATION AND THE MARYLAND**
28 **HIGHER EDUCATION COMMISSION, IN CONSULTATION WITH THE INTERAGENCY**
29 **COMMITTEE ON SCHOOL CONSTRUCTION, JOINTLY SHALL ADOPT REGULATIONS TO**
30 **CARRY OUT THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

2 (a) If Congress, the President by executive order, or the Internal Revenue Service
3 expressly disallow a deduction under § 170 of the Internal Revenue Code for contributions
4 of the type authorized in this Act, with no further action required by the General Assembly,
5 this Act shall be abrogated and of no further force and effect.

6 (b) The Comptroller shall notify the Department of Legislative Services within 5
7 days after receiving notice of the federal law, executive order, or determination by the
8 Internal Revenue Service described under this section.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2017.