
By: **Delegates Hixson, Bartlett, Boschert, Cardin, Cryor, C. Davis, Elmore, Gilleland, Goodwin, Healey, Heller, Howard, Kaiser, King, Marriott, McKee, Myers, Patterson, Ramirez, and Ross**

Introduced and read first time: February 3, 2005

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2005

CHAPTER _____

1 AN ACT concerning

2 **Income Tax - Credit for Providing Adult Literacy Programs**

3 FOR the purpose of allowing certain business entities a certain credit against the
 4 State income tax for certain taxable years for a certain amount of the cost of
 5 adult literacy services provided to an employee; limiting to a certain amount the
 6 total amount of credits a business entity may claim in any taxable year;
 7 providing that the credit may ~~not exceed the State income tax for that taxable~~
 8 ~~year and that any unused credit may not be carried over to any other taxable~~
 9 ~~year; providing for the applicability of the credit; be refundable under certain~~
 10 circumstances; providing for the issuance of certain initial credit certificates by
 11 the State Superintendent of Schools, subject to certain requirements and
 12 limitations, for certain fiscal years; providing certain limits on the amount of
 13 credits that can be claimed; requiring the State Superintendent to issue final
 14 credit certificates under certain circumstances; establishing the Adult Literacy
 15 Services Tax Credit Reserve Fund; limiting the credit amounts in the aggregate
 16 for which the State Superintendent may issue initial credit certificates for any
 17 fiscal year; authorizing the Governor to include certain appropriations to a
 18 certain fund in the annual budget bill for certain fiscal years; requiring the
 19 Comptroller to transfer certain amounts from a certain fund to the General
 20 Fund under certain circumstances; requiring the State Superintendent to
 21 submit certain reports; requiring the State Superintendent to adopt certain
 22 regulations; defining certain terms; and generally relating to a tax credit
 23 against the State income tax for certain costs associated with adult literacy
 24 services.

25 BY adding to

1 Article - Tax - General
 2 Section 10-725
 3 Annotated Code of Maryland
 4 (2004 Replacement Volume)

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

7 **Article - Tax - General**

8 10-725.

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 10 INDICATED.

11 (2) "ADULT LITERACY SERVICES" INCLUDES:

12 (I) BASIC SKILLS AND LITERACY INSTRUCTION; AND

13 (II) ENGLISH FOR SPEAKERS OF OTHER LANGUAGES.

14 (3) "BUSINESS ENTITY" MEANS:

15 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS;

16 OR

17 (II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
 18 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

19 (4) "COST OF INSTRUCTION" MEANS THE EXPENDITURES INCURRED BY
 20 A BUSINESS ENTITY TO PROVIDE ADULT LITERACY SERVICES TO ITS EMPLOYEES AT
 21 THE WORK SITE OR IN AN EDUCATIONAL OR COMMUNITY SETTING.

22 (5) "STATE SUPERINTENDENT" MEANS THE STATE SUPERINTENDENT OF
 23 SCHOOLS.

24 (6) "TAX CREDIT" MEANS THE ADULT LITERACY SERVICES TAX CREDITS
 25 AUTHORIZED UNDER THIS SECTION.

26 (B) (1) ~~SUBJECT TO SUBSECTION (C) SUBSECTIONS (C) AND (D) OF THIS~~
 27 ~~SECTION, A BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME~~
 28 ~~TAX IN AN AMOUNT EQUAL TO 50% OF THE COST OF INSTRUCTION THE FINAL CREDIT~~
 29 ~~CERTIFICATE APPROVED BY THE STATE SUPERINTENDENT FOR ADULT LITERACY~~
 30 ~~SERVICES PROVIDED DURING THE TAXABLE YEAR.~~

31 (2) A BUSINESS ENTITY THAT IS EXEMPT FROM TAXATION UNDER §
 32 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY CLAIM THE CREDIT AGAINST
 33 THE STATE INCOME TAX DUE ON UNRELATED BUSINESS INCOME AS PROVIDED
 34 UNDER §§ 10-304 AND 10-812 OF THIS TITLE.

1 ~~(C) (1) THE CREDIT ALLOWED UNDER THIS SECTION APPLIES TO A TAXABLE~~
2 ~~YEAR BEGINNING AFTER DECEMBER 31, 2005 BUT BEFORE JANUARY 1, 2009.~~

3 ~~(2) FOR ANY TAXABLE YEAR, THE COST OF INSTRUCTION FOR A~~
4 ~~BUSINESS ENTITY MAY NOT EXCEED \$500 TIMES THE NUMBER OF EMPLOYEES~~
5 ~~RECEIVING ADULT LITERACY SERVICES.~~

6 ~~(3) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS~~
7 ~~SECTION MAY NOT EXCEED THE LESSER OF:~~

8 ~~(I) \$50,000; OR~~

9 ~~(II) THE STATE INCOME TAX IMPOSED FOR THE TAXABLE YEAR.~~

10 ~~(4) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY~~
11 ~~NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.~~

12 ~~(C) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE ADULT~~
13 ~~LITERACY SERVICES TAX CREDIT RESERVE FUND ESTABLISHED UNDER PARAGRAPH~~
14 ~~(2) OF THIS SUBSECTION.~~

15 ~~(2) (I) THERE IS AN ADULT LITERACY SERVICES TAX CREDIT RESERVE~~
16 ~~FUND WHICH IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT~~
17 ~~TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

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

21 ~~(3) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE STATE~~
22 ~~SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR EACH~~
23 ~~BUSINESS ENTITY FOR WHICH TAX CREDITS ARE APPROVED.~~

24 ~~(II) AN INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS~~
25 ~~SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF CREDIT UNDER THIS~~
26 ~~SECTION FOR WHICH THE BUSINESS ENTITY MAY QUALIFY.~~

27 ~~(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS~~
28 ~~SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE STATE SUPERINTENDENT MAY NOT~~
29 ~~ISSUE INITIAL CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE~~
30 ~~TOTALING MORE THAN THE SUM OF:~~

31 ~~A. THE LESSER OF \$2,000,000 OR THE AMOUNT~~
32 ~~APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE~~
33 ~~BUDGET AS APPROVED BY THE GENERAL ASSEMBLY; AND~~

34 ~~B. ANY BALANCE CARRIED FORWARD FROM THE PREVIOUS~~
35 ~~FISCAL YEAR.~~

1 2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL
2 CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR ARE LESS THAN \$2,000,000 AND ARE
3 LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL
4 YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE
5 ISSUED UNDER INITIAL CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

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

11 (IV) FOR EACH OF FISCAL YEARS 2007, 2008, AND 2009, THE
12 GOVERNOR MAY INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE
13 RESERVE FUND.

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

18 (VI) THE STATE SUPERINTENDENT MAY NOT ISSUE AN INITIAL
19 CREDIT CERTIFICATE FOR ANY FISCAL YEAR AFTER FISCAL YEAR 2009.

20 (4) BASED ON ACTUAL EXPENDITURES FOR THE COST OF INSTRUCTION
21 FOR ADULT LITERACY SERVICES, THE STATE SUPERINTENDENT SHALL ISSUE A
22 FINAL CERTIFIED CREDIT TO THE BUSINESS ENTITY.

23 (5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY
24 APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE FUND.

25 (II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR
26 QUARTER, THE STATE SUPERINTENDENT SHALL NOTIFY THE COMPTROLLER AS TO
27 EACH TAX CREDIT CERTIFIED DURING THE QUARTER:

28 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL
29 CREDIT CERTIFICATE FOR THE BUSINESS ENTITY; AND

30 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
31 BUSINESS ENTITY.

32 2. ON NOTIFICATION THAT A BUSINESS ENTITY HAS
33 RECEIVED FINAL CERTIFICATION, THE COMPTROLLER SHALL TRANSFER AN
34 AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE FINAL CREDIT
35 CERTIFICATE FOR THE BUSINESS ENTITY FROM THE RESERVE FUND TO THE
36 GENERAL FUND.

37 (D) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, EACH FISCAL YEAR
38 THE STATE SUPERINTENDENT SHALL CERTIFY TAX CREDITS TO BE AWARDED TO

1 BUSINESS ENTITIES FOR THE COST OF INSTRUCTION FOR ADULT LITERACY
2 SERVICES.

3 (2) BETWEEN APRIL 1 AND OCTOBER 31 OF EACH YEAR, THE STATE
4 SUPERINTENDENT MAY ACCEPT APPLICATIONS FOR A TAX CREDIT FOR THE FISCAL
5 YEAR THAT BEGINS JULY 1 OF THAT YEAR.

6 (3) NOT MORE THAN 50% OF THE MAXIMUM AMOUNT OF TAX CREDITS
7 CERTIFIED BY THE STATE SUPERINTENDENT FOR ANY FISCAL YEAR MAY BE ISSUED
8 FOR ADULT LITERACY SERVICES PROVIDED IN A SINGLE COUNTY OR BALTIMORE
9 CITY.

10 (4) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE STATE
11 SUPERINTENDENT SHALL APPROVE CREDITS UNDER THIS SECTION BASED ON NEED
12 AND PERFORMANCE.

13 (5) BETWEEN JULY 1 AND DECEMBER 31 OF EACH YEAR, THE STATE
14 SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR EACH
15 BUSINESS ENTITY FOR WHICH A TAX CREDIT IS APPROVED FOR THE FISCAL YEAR
16 THAT BEGINS ON JULY 1 OF THAT YEAR.

17 (6) TO CLAIM A TAX CREDIT UNDER THIS SECTION, A BUSINESS ENTITY
18 SHALL ATTACH A COPY OF THE STATE SUPERINTENDENT'S CERTIFICATION OF THE
19 TAX CREDIT TO THE BUSINESS ENTITY'S INCOME TAX RETURN.

20 (7) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY
21 TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY A BUSINESS
22 ENTITY FOR THAT TAXABLE YEAR, THE BUSINESS ENTITY MAY CLAIM A REFUND IN
23 THE AMOUNT OF THE EXCESS.

24 (8) FOR EACH BUSINESS ENTITY, THE TAX CREDIT CERTIFIED BY THE
25 STATE SUPERINTENDENT IN A FISCAL YEAR MAY NOT EXCEED THE LESSER OF:

26 (I) 35% OF THE COST OF INSTRUCTION FOR ADULT LITERACY
27 SERVICES PROVIDED TO EMPLOYEES DURING THE FISCAL YEAR;

28 (II) \$150 TIMES THE NUMBER OF EMPLOYEES RECEIVING ADULT
29 LITERACY SERVICES; OR

30 (III) \$25,000.

31 (E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE STATE SUPERINTENDENT
32 SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
33 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A REPORT ON THE TAX CREDITS
34 CERTIFIED UNDER THIS SECTION FOR THE PREVIOUS FISCAL YEAR, INCLUDING:

35 (1) THE TOTAL NUMBER OF BUSINESS ENTITIES THAT APPLIED FOR THE
36 TAX CREDITS UNDER THIS SECTION AND THE TOTAL NUMBER OF BUSINESS
37 ENTITIES CERTIFIED; AND

1 (2) THE NAME AND PHYSICAL LOCATION OF EACH BUSINESS ENTITY
2 APPROVED FOR THE TAX CREDITS AND THE NUMBER OF EMPLOYEES RECEIVING
3 ADULT LITERACY SERVICES.

4 (F) THE STATE SUPERINTENDENT SHALL ADOPT REGULATIONS NECESSARY
5 TO CARRY OUT THE PROVISIONS OF THIS SECTION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2005.