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Assigned to: Ways and Means

A BILL ENTITLED

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 be refundable under certain circumstances;
8 providing for the issuance of certain initial credit certificates by the State
9 Superintendent of Schools, subject to certain requirements and limitations, for
10 certain fiscal years; providing certain limits on the amount of credits that can be
11 claimed; requiring the State Superintendent to issue final credit certificates
12 under certain circumstances; establishing the Adult Literacy Services Tax
13 Credit Reserve Fund; limiting the credit amounts in the aggregate for which the
14 State Superintendent may issue initial credit certificates for any fiscal year;
15 authorizing the Governor to include certain appropriations to a certain fund in
16 the annual budget bill for certain fiscal years; requiring the Comptroller to
17 transfer certain amounts from a certain fund to the General Fund under certain
18 circumstances; requiring the State Superintendent to submit certain reports;
19 requiring the State Superintendent to adopt certain regulations; defining
20 certain terms; and generally relating to a tax credit against the State income tax
21 for certain costs associated with adult literacy services.

22 BY adding to
23 Article - Tax - General
24 Section 10-726
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2005 Supplement)

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

1 **Article - Tax - General**

2 10-726.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "ADULT LITERACY SERVICES" INCLUDES:

6 (I) BASIC SKILLS AND LITERACY INSTRUCTION; AND

7 (II) ENGLISH FOR SPEAKERS OF OTHER LANGUAGES.

8 (3) "BUSINESS ENTITY" MEANS:

9 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS;
10 OR11 (II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
12 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.13 (4) "COST OF INSTRUCTION" MEANS THE EXPENDITURES INCURRED BY
14 A BUSINESS ENTITY TO PROVIDE ADULT LITERACY SERVICES TO ITS EMPLOYEES AT
15 THE WORK SITE OR IN AN EDUCATIONAL OR COMMUNITY SETTING.16 (5) "STATE SUPERINTENDENT" MEANS THE STATE SUPERINTENDENT OF
17 SCHOOLS.18 (6) "TAX CREDIT" MEANS THE ADULT LITERACY SERVICES TAX CREDITS
19 AUTHORIZED UNDER THIS SECTION.20 (B) (1) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A BUSINESS
21 ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT
22 EQUAL TO THE FINAL CREDIT CERTIFICATE APPROVED BY THE STATE
23 SUPERINTENDENT FOR ADULT LITERACY SERVICES PROVIDED DURING THE
24 TAXABLE YEAR.25 (2) A BUSINESS ENTITY THAT IS EXEMPT FROM TAXATION UNDER §
26 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY CLAIM THE CREDIT AGAINST
27 THE STATE INCOME TAX DUE ON UNRELATED BUSINESS INCOME AS PROVIDED
28 UNDER §§ 10-304 AND 10-812 OF THIS TITLE.29 (C) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE ADULT
30 LITERACY SERVICES TAX CREDIT RESERVE FUND ESTABLISHED UNDER PARAGRAPH
31 (2) OF THIS SUBSECTION.32 (2) (I) THERE IS AN ADULT LITERACY SERVICES TAX CREDIT RESERVE
33 FUND WHICH IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT
34 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 (II) THE MONEY IN THE FUND SHALL BE INVESTED AND
2 REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE
3 CREDITED TO THE GENERAL FUND.

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

7 (II) AN INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS
8 SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF CREDIT UNDER THIS
9 SECTION FOR WHICH THE BUSINESS ENTITY MAY QUALIFY.

10 (III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS
11 SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE STATE SUPERINTENDENT MAY NOT
12 ISSUE INITIAL CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE
13 TOTALING MORE THAN THE SUM OF:

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

17 B. ANY BALANCE CARRIED FORWARD FROM THE PREVIOUS
18 FISCAL YEAR.

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

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

29 (IV) FOR EACH OF FISCAL YEARS 2008, 2009, AND 2010, THE
30 GOVERNOR MAY INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE
31 RESERVE FUND.

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

36 (VI) THE STATE SUPERINTENDENT MAY NOT ISSUE AN INITIAL
37 CREDIT CERTIFICATE FOR ANY FISCAL YEAR AFTER FISCAL YEAR 2010.

1 (4) BASED ON ACTUAL EXPENDITURES FOR THE COST OF INSTRUCTION
2 FOR ADULT LITERACY SERVICES, THE STATE SUPERINTENDENT SHALL ISSUE A
3 FINAL CREDIT CERTIFICATE TO THE BUSINESS ENTITY.

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

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

9 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL
10 CREDIT CERTIFICATE FOR THE BUSINESS ENTITY; AND

11 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
12 BUSINESS ENTITY.

13 2. ON NOTIFICATION THAT A BUSINESS ENTITY HAS
14 RECEIVED FINAL CERTIFICATION, THE COMPTROLLER SHALL TRANSFER AN
15 AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE FINAL CREDIT
16 CERTIFICATE FOR THE BUSINESS ENTITY FROM THE RESERVE FUND TO THE
17 GENERAL FUND.

18 (D) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, EACH FISCAL YEAR
19 THE STATE SUPERINTENDENT SHALL CERTIFY TAX CREDITS TO BE AWARDED TO
20 BUSINESS ENTITIES FOR THE COST OF INSTRUCTION FOR ADULT LITERACY
21 SERVICES.

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

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

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

32 (5) BETWEEN JULY 1 AND DECEMBER 31 OF EACH YEAR, THE STATE
33 SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR EACH
34 BUSINESS ENTITY FOR WHICH A TAX CREDIT IS APPROVED FOR THE FISCAL YEAR
35 THAT BEGINS JULY 1 OF THAT YEAR.

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

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

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

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

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

11 (III) \$25,000.

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

16 (1) THE TOTAL NUMBER OF BUSINESS ENTITIES THAT APPLIED FOR THE
17 TAX CREDITS UNDER THIS SECTION AND THE TOTAL NUMBER OF BUSINESS
18 ENTITIES CERTIFIED; AND

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

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2006.