
By: **Senator McFadden**

Introduced and read first time: February 3, 2006

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Corporate Income Tax - Tax Credit for Location in a Higher**
3 **Education-Affiliated Research Park**

4 FOR the purpose of providing a tax credit against the State income tax for certain
5 eligible expenses of corporations that locate to a higher education-affiliated
6 research park; requiring the Department of Business and Economic
7 Development to administer the tax credit; requiring a business entity to submit
8 a certain application within a certain time period and to locate to a higher
9 education-affiliated research park and provide certain notice to the Department
10 within a certain time period; requiring the Department to adopt certain
11 regulations jointly with the Comptroller; requiring the Department to approve
12 certain applications within a certain time period and in a certain manner;
13 providing that if certain notice is not provided within a certain time period, the
14 Department is required to rescind certain tax credit certificates; providing
15 limits on the amount of certain tax credits and the aggregate amount of tax
16 credits that may be approved by the Department in a calendar year; providing
17 for a carryforward of certain tax credits and providing that certain tax credits
18 may be transferred under certain circumstances; allowing certain transferred
19 tax credits to be claimed against the State income tax and authorizing certain
20 business entities to rely on certain information; requiring the Department to
21 submit a certain report by a certain date each year; defining certain terms;
22 providing for the application of this Act; and generally relating to a State income
23 tax credit for certain eligible expenses of corporations that locate to a higher
24 education-affiliated research park.

25 BY adding to

26 Article - Tax - General

27 Section 10-726

28 Annotated Code of Maryland

29 (2004 Replacement Volume and 2005 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 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) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND
6 ECONOMIC DEVELOPMENT.7 (3) "ELIGIBLE COSTS" MEANS COSTS AND EXPENSES INCURRED BY A
8 BUSINESS ENTITY IN CONNECTION WITH LOCATING IN A HIGHER EDUCATION
9 RESEARCH PARK AS DEFINED BY THE DEPARTMENT IN REGULATION INCLUDING
10 COSTS ASSOCIATED WITH:11 (I) INSTALLATION, CONSTRUCTION, AND EQUIPPING OF SPACE IN
12 THE RESEARCH PARK FOR A SPECIFIC PURPOSE RELATED TO RESEARCH AND
13 DEVELOPMENT; AND14 (II) RENTAL OR LEASING COSTS RELATED TO THE FIRST 6 MONTHS
15 OF OCCUPATION OF SPACE IN THE RESEARCH PARK.16 (4) "HIGHER EDUCATION-AFFILIATED RESEARCH PARK" MEANS A
17 PROPERTY-BASED VENTURE LOCATED IN THE STATE THAT HAS:18 (I) EXISTING OR PLANNED LAND AND BUILDINGS DESIGNED
19 PRIMARILY FOR RESEARCH AND DEVELOPMENT FACILITIES, HIGH TECHNOLOGY
20 AND SCIENCE-BASED COMPANIES, AND SUPPORT SERVICES;21 (II) A CONTRACTUAL OR FORMAL OWNERSHIP OR OPERATIONAL
22 RELATIONSHIP WITH ONE OR MORE INSTITUTIONS OF HIGHER EDUCATION;23 (III) A ROLE IN PROMOTING RESEARCH AND DEVELOPMENT BY
24 INSTITUTIONS OF HIGHER EDUCATION IN PARTNERSHIP WITH INDUSTRY, ASSISTING
25 IN THE GROWTH OF NEW VENTURES, AND PROMOTING ECONOMIC DEVELOPMENT;
26 AND27 (IV) A ROLE IN AIDING THE TRANSFER OF TECHNOLOGY AND
28 BUSINESS SKILLS BETWEEN AN INSTITUTION OF HIGHER EDUCATION AND
29 INDUSTRY TENANTS.30 (5) "INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF
31 HIGHER EDUCATION AS DEFINED IN § 10-101(F) OF THE EDUCATION ARTICLE THAT
32 IS:33 (I) A PUBLIC OR PRIVATE NONPROFIT INSTITUTION OF HIGHER
34 EDUCATION;35 (II) APPROVED BY THE MARYLAND HIGHER EDUCATION
36 COMMISSION; AND

1 (III) ACCREDITED BY THE COMMISSION ON HIGHER EDUCATION OF
2 THE MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS.

3 (B) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, A CORPORATION MAY
4 CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE
5 CREDIT CERTIFICATE APPROVED BY THE DEPARTMENT FOR ELIGIBLE COSTS
6 ASSOCIATED WITH LOCATING IN A HIGHER EDUCATION-AFFILIATED RESEARCH
7 PARK.

8 (C) AT LEAST 30 DAYS PRIOR TO LOCATING IN A HIGHER
9 EDUCATION-AFFILIATED RESEARCH PARK, A BUSINESS ENTITY SHALL APPLY TO
10 THE DEPARTMENT FOR AN INITIAL CREDIT CERTIFICATE.

11 (D) THE DEPARTMENT SHALL:

12 (1) ADOPT REGULATIONS JOINTLY WITH THE COMPTROLLER TO
13 IMPLEMENT THIS SECTION;

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

16 (3) WITHIN 30 DAYS AFTER RECEIPT OF AN APPLICATION, ISSUE AN
17 INITIAL TAX CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION OR PROVIDE
18 NOTICE OF REJECTION CONTAINING AN EXPLANATION OF THE REASON FOR
19 REJECTION; AND

20 (4) WITHIN 30 DAYS AFTER RECEIVING NOTICE OF LOCATION IN A
21 HIGHER EDUCATION-AFFILIATED RESEARCH PARK, ISSUE A FINAL CREDIT
22 CERTIFICATE AS PROVIDED UNDER THIS SECTION.

23 (E) (1) AFTER THE DEPARTMENT HAS ISSUED AN INITIAL CREDIT
24 CERTIFICATE UNDER THIS SECTION, THE BUSINESS ENTITY SHALL HAVE 120 DAYS
25 TO LOCATE IN A HIGHER EDUCATION-AFFILIATED RESEARCH PARK UNDER THIS
26 SECTION.

27 (2) WITHIN 60 DAYS AFTER LOCATING TO A HIGHER
28 EDUCATION-AFFILIATED RESEARCH PARK, A BUSINESS ENTITY SHALL PROVIDE
29 NOTICE TO THE DEPARTMENT OF THE LOCATION AND THE AMOUNT OF ELIGIBLE
30 COSTS.

31 (3) IF A BUSINESS ENTITY FAILS TO LOCATE IN A HIGHER
32 EDUCATION-AFFILIATED RESEARCH PARK WITHIN 120 DAYS OR FAILS TO PROVIDE
33 NOTICE WITHIN 60 DAYS AFTER LOCATING TO A HIGHER EDUCATION-AFFILIATED
34 RESEARCH PARK, THE DEPARTMENT SHALL RESCIND THE INITIAL CREDIT
35 CERTIFICATE.

36 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
37 TOTAL AMOUNT OF TAX CREDITS THAT THE DEPARTMENT MAY ISSUE IN INITIAL
38 CREDIT CERTIFICATES IS \$4,000,000 IN EACH CALENDAR YEAR.

1 (2) IF AN INITIAL CREDIT CERTIFICATE HAS BEEN RESCINDED BY THE
2 DEPARTMENT, THE DEPARTMENT MAY APPROVE ADDITIONAL INITIAL CREDIT
3 CERTIFICATES FOR OTHER BUSINESS ENTITIES THAT MAY NOT EXCEED THE
4 AMOUNT OF TAX CREDITS APPROVED IN THE INITIAL CREDIT CERTIFICATES THAT
5 WERE RESCINDED.

6 (3) THE TAX CREDIT ALLOWED IN AN INITIAL CREDIT CERTIFICATE
7 ISSUED UNDER THIS SECTION IS 100% OF ELIGIBLE COSTS NOT TO EXCEED \$50,000.

8 (G) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
9 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A CORPORATION MAY
10 APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX FOR SUCCEEDING
11 TAXABLE YEARS UNTIL THE EARLIER OF:

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

13 (2) THE EXPIRATION OF THE THIRD TAXABLE YEAR AFTER THE
14 TAXABLE YEAR IN WHICH THE ELIGIBLE COSTS WERE INCURRED.

15 (H) (1) A BUSINESS ENTITY MAY TRANSFER ALL OR PART OF THE CREDIT
16 UNDER THIS SECTION TO ANOTHER BUSINESS ENTITY.

17 (2) A CREDIT MAY NOT BE TRANSFERRED UNDER THIS SUBSECTION
18 UNLESS THE BUSINESS ENTITY TRANSFERRING THE CREDIT NOTIFIES THE
19 DEPARTMENT OF THE NAME OF THE TRANSFEREE AND THE AMOUNT OF THE CREDIT
20 THAT WAS TRANSFERRED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE
21 TRANSFER.

22 (3) A BUSINESS ENTITY TO WHOM ANY CREDIT IS TRANSFERRED BY
23 ANOTHER BUSINESS ENTITY UNDER THIS SUBSECTION:

24 (I) MAY CLAIM A TAX CREDIT UNDER THIS SECTION IN THE FULL
25 AMOUNT OF THE CREDIT TRANSFERRED, BY FILING WITH ITS TAX RETURN A COPY
26 OF THE FORM EVIDENCING THE TRANSFER OF THE TAX CREDIT; AND

27 (II) SHALL BE ENTITLED TO RELY IN GOOD FAITH ON
28 INFORMATION ON WHICH THE CREDIT IS BASED, INCLUDING THE AMOUNT OF
29 ELIGIBLE COSTS.

30 (I) (1) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE DEPARTMENT
31 SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
32 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE CREDITS APPROVED
33 UNDER THIS SECTION.

34 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
35 SUBSECTION SHALL INCLUDE FOR EACH CORPORATION APPROVED TO RECEIVE A
36 CREDIT IN THE PRIOR CALENDAR YEAR:

37 (I) THE NAME OF THE CORPORATION;

1 (II) THE NAME AND ADDRESS OF THE HIGHER
2 EDUCATION-AFFILIATED RESEARCH PARK WHERE THE CORPORATION IS LOCATED;

3 (III) THE AMOUNT OF THE APPROVED CREDIT; AND

4 (IV) IF THE APPROVED CREDIT WAS TRANSFERRED BY A
5 CORPORATION, THE AMOUNT OF THE CREDIT TRANSFERRED AND THE NAME AND
6 ADDRESS OF THE BUSINESS ENTITY TO WHOM THE CREDIT WAS TRANSFERRED.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,
9 2005.