
By: **Senators DeGrange, Currie, Astle, Brinkley, Della, Dyson, Green,
Hogan, Jacobs, Jones, Kasemeyer, Klausmeier, Kramer, Lawlah,
McFadden, Middleton, Munson, Schrader, Stoltzfus, and Stone**

Introduced and read first time: February 20, 2006

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Building Opportunities for All Students and Teachers (BOAST) in Maryland**
3 **Tax Credit**

4 FOR the purpose of allowing a credit against the State income tax for contributions
5 made to an eligible educational scholarship organization or an eligible
6 innovative educational grant organization; requiring the State Department of
7 Education to administer the tax credit; requiring an entity to submit an
8 application to be an eligible educational scholarship organization or an eligible
9 innovative educational grant organization by a certain date each year; requiring
10 an eligible educational scholarship organization or an eligible innovative
11 educational grant organization to meet certain qualifications; requiring a
12 business entity to submit a certain application within a certain time period and
13 to make a contribution to an eligible educational scholarship organization or an
14 eligible innovative educational grant organization and to provide certain notice
15 within a certain time period; requiring the Department to adopt certain
16 regulations jointly with the Comptroller; requiring the Department to approve
17 certain applications within a certain time period and in a certain manner;
18 requiring the Department to rescind certain tax credit certificates if certain
19 notice is not provided within a certain time period; providing limits on the
20 amount of certain tax credits and the aggregate amount of tax credits that may
21 be approved by the Department in a calendar year; providing that certain
22 unused tax credits may not be carried forward; requiring the Department to
23 publish and update a certain list in a certain manner each year and to submit a
24 certain report by a certain date each year; defining certain terms; providing for
25 the application of this Act; and generally relating to a State income tax credit for
26 contributions made to an eligible educational scholarship organization or an
27 eligible innovative educational grant organization.

28 BY adding to
29 Article - Tax - General
30 Section 10-726
31 Annotated Code of Maryland
32 (2004 Replacement Volume and 2005 Supplement)

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

3 **Article - Tax - General**

4 10-726.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED:

7 (2) "CONTRIBUTION" MEANS A MONETARY DONATION.

8 (3) "DEPARTMENT" MEANS THE MARYLAND STATE DEPARTMENT OF
9 EDUCATION.

10 (4) "ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS AN
11 ENTITY THAT:

12 (I) IS EXEMPT FROM FEDERAL TAXATION UNDER § 501(C)(3) OF THE
13 INTERNAL REVENUE CODE;

14 (II) PROVIDES TUITION SCHOLARSHIPS TO:

15 1. STUDENTS ATTENDING ELIGIBLE NONPUBLIC SCHOOLS
16 IN THE STATE; AND

17 2. TEACHERS AT ELIGIBLE NONPUBLIC SCHOOLS IN THE
18 STATE FOR THE PURPOSE OF ASSISTING IN THE COST OF GRADUATE-LEVEL COURSE
19 WORK OR CONTINUING PROFESSIONAL DEVELOPMENT PROGRAMS TO MEET OR
20 RETAIN STATE CERTIFICATION OR CERTIFICATION BY THE NATIONAL BOARD FOR
21 PROFESSIONAL TEACHING STANDARDS; AND

22 (III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS
23 SECTION.

24 (5) "ELIGIBLE INNOVATIVE EDUCATIONAL GRANT ORGANIZATION"
25 MEANS AN ENTITY THAT:

26 (I) IS EXEMPT FROM FEDERAL TAXATION UNDER § 501(C)(3) OF THE
27 INTERNAL REVENUE CODE;

28 (II) PROVIDES GRANTS TO:

29 1. PUBLIC SCHOOLS TO SUPPORT INNOVATIVE
30 EDUCATIONAL PROGRAMS THAT ARE NOT PART OF THE REGULAR ACADEMIC
31 PROGRAM OF A PUBLIC SCHOOL BUT THAT ENHANCE THE CURRICULUM OR
32 ACADEMIC PROGRAM OF A PUBLIC SCHOOL IN ORDER TO ACHIEVE THE GOALS OF
33 THE BRIDGE TO EXCELLENCE IN PUBLIC SCHOOLS ACT OF 2002; OR

1 2. TEACHERS EMPLOYED BY PUBLIC SCHOOLS IN THE STATE
2 FOR THE PURPOSE OF ASSISTING IN THE COST OF GRADUATE-LEVEL COURSE WORK
3 OR CONTINUING PROFESSIONAL DEVELOPMENT PROGRAMS TO MEET OR RETAIN
4 STATE CERTIFICATION OR CERTIFICATION BY THE NATIONAL BOARD FOR
5 PROFESSIONAL TEACHING STANDARDS; AND

6 (III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(2) OF THIS
7 SECTION.

8 (6) "ELIGIBLE NONPUBLIC SCHOOL" MEANS A KINDERGARTEN,
9 ELEMENTARY, OR SECONDARY SCHOOL THAT:

10 (I) HOLDS A CERTIFICATE OF APPROVAL FROM OR IS REGISTERED
11 WITH THE STATE BOARD OF EDUCATION;

12 (II) DOES NOT CHARGE TUITION THAT IS GREATER THAN THE
13 STATEWIDE AVERAGE PER PUPIL EXPENDITURE BY THE LOCAL EDUCATION
14 AGENCIES CALCULATED BY THE DEPARTMENT WITH EXCEPTIONS FOR SPECIAL
15 EDUCATION STUDENTS DETERMINED BY THE DEPARTMENT TO BE APPROPRIATE;
16 AND

17 (III) COMPLIES WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AS
18 AMENDED.

19 (B) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, A BUSINESS ENTITY
20 MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO
21 75% OF A CONTRIBUTION MADE TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP
22 ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT ORGANIZATION.

23 (C) (1) TO QUALIFY AS AN ELIGIBLE EDUCATIONAL SCHOLARSHIP
24 ORGANIZATION, AN ENTITY SHALL:

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

27 (II) PROVIDE TUITION SCHOLARSHIPS TO STUDENTS ATTENDING
28 ELIGIBLE NONPUBLIC SCHOOLS OR TEACHERS WORKING AT ELIGIBLE NONPUBLIC
29 SCHOOLS;

30 (III) CONTRIBUTE OR IRREVOCABLY ENCUMBER:

31 1. AT LEAST 85% OF ANNUAL CASH RECEIPTS RECEIVED AS
32 THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS UNDER THIS SECTION
33 TOWARD TUITION SCHOLARSHIPS FOR STUDENTS OR TEACHERS AT ELIGIBLE
34 NONPUBLIC SCHOOLS AS PROVIDED UNDER THIS SECTION; AND

35 2. NO MORE THAN 25% OF ANNUAL CASH RECEIPTS
36 RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS UNDER
37 THIS SECTION FOR GRANTS TO TEACHERS EMPLOYED AT ELIGIBLE NONPUBLIC
38 SCHOOLS UNDER THIS SECTION;

1 (IV) PROVIDE TUITION SCHOLARSHIPS TO AT LEAST FOUR
2 DIFFERENT ELIGIBLE NONPUBLIC SCHOOLS IN EACH CALENDAR YEAR;

3 (V) PROVIDE SCHOLARSHIPS ON A PRIORITY BASIS FIRST TO
4 STUDENT APPLICANTS WHO ARE ELIGIBLE FOR FREE AND REDUCED PRICE MEALS
5 BASED ON ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE UNITED STATES
6 DEPARTMENT OF AGRICULTURE AND THEN TO OTHER STUDENT APPLICANTS BASED
7 ON FINANCIAL NEED;

8 (VI) SUBMIT TO THE DEPARTMENT THE APPLICATION AND REVIEW
9 PROCESS FOR APPROVAL OF TUITION SCHOLARSHIPS; AND

10 (VII) ON OR BEFORE JANUARY 1 OF EACH YEAR, SUBMIT
11 VERIFICATION TO THE DEPARTMENT THAT ALL REQUIREMENTS FOR ELIGIBILITY
12 UNDER THIS PARAGRAPH HAVE BEEN MET IN THE PRIOR CALENDAR YEAR.

13 (2) TO QUALIFY AS AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT
14 ORGANIZATION, AN ENTITY SHALL:

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

17 (II) PROVIDE GRANTS TO:

18 1. PUBLIC SCHOOLS TO SUPPORT INNOVATIVE
19 EDUCATIONAL PROGRAMS THAT ARE NOT PART OF THE REGULAR ACADEMIC
20 PROGRAM OF A PUBLIC SCHOOL BUT THAT ENHANCE THE CURRICULUM OR
21 ACADEMIC PROGRAM OF A PUBLIC SCHOOL IN ORDER TO ACHIEVE THE GOALS OF
22 THE BRIDGE TO EXCELLENCE IN PUBLIC SCHOOLS ACT OF 2002; OR

23 2. TEACHERS EMPLOYED BY PUBLIC SCHOOLS IN THE STATE
24 FOR THE PURPOSE OF ASSISTING IN THE COST OF GRADUATE-LEVEL COURSE WORK
25 OR CONTINUING PROFESSIONAL DEVELOPMENT PROGRAMS TO MEET OR RETAIN
26 STATE CERTIFICATION OR CERTIFICATION BY THE NATIONAL BOARD FOR
27 PROFESSIONAL TEACHING STANDARDS;

28 (III) CONTRIBUTE OR IRREVOCABLY ENCUMBER:

29 1. AT LEAST 85% OF ANNUAL CASH RECEIPTS RECEIVED AS
30 THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS UNDER THIS SECTION
31 FOR GRANTS TO PUBLIC SCHOOLS AND TEACHERS EMPLOYED AT PUBLIC SCHOOLS
32 UNDER THIS SECTION; AND

33 2. NO MORE THAN 25% OF ANNUAL CASH RECEIPTS
34 RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS UNDER
35 THIS SECTION FOR GRANTS TO TEACHERS EMPLOYED AT PUBLIC SCHOOLS UNDER
36 THIS SECTION;

37 (IV) SUBMIT TO THE DEPARTMENT THE APPLICATION AND REVIEW
38 PROCESS FOR APPROVAL OF GRANTS; AND

1 (V) ON OR BEFORE JANUARY 1 OF EACH YEAR, SUBMIT
2 VERIFICATION TO THE DEPARTMENT THAT ALL REQUIREMENTS FOR ELIGIBILITY
3 UNDER THIS PARAGRAPH HAVE BEEN MET FOR THE PRIOR CALENDAR YEAR.

4 (D) AT LEAST 30 DAYS PRIOR TO MAKING A CONTRIBUTION TO AN ELIGIBLE
5 EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE INNOVATIVE
6 EDUCATIONAL GRANT ORGANIZATION, A BUSINESS ENTITY SHALL APPLY TO THE
7 DEPARTMENT FOR AN INITIAL CREDIT CERTIFICATE.

8 (E) THE DEPARTMENT SHALL:

9 (1) ADOPT REGULATIONS JOINTLY WITH THE COMPTROLLER TO
10 IMPLEMENT 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 ENTITY'S
14 APPLICATION TO BECOME AN ELIGIBLE EDUCATIONAL SCHOLARSHIP
15 ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT ORGANIZATION;

16 (4) WITHIN 30 DAYS AFTER RECEIVING AN APPLICATION, ISSUE AN
17 INITIAL TAX CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION STATING THE
18 MAXIMUM AMOUNT OF THE TAX CREDIT FOR WHICH A BUSINESS ENTITY IS ELIGIBLE
19 OR PROVIDE NOTICE OF REJECTION OF THE APPLICATION THAT CONTAINS AN
20 EXPLANATION OF THE REASON FOR REJECTION;

21 (5) WITHIN 30 DAYS AFTER RECEIVING NOTICE OF A CONTRIBUTION
22 MADE TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN
23 ELIGIBLE INNOVATIVE EDUCATIONAL GRANT ORGANIZATION, ISSUE A FINAL
24 CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION;

25 (6) PUBLISH AN ANNUAL LIST OF ALL ELIGIBLE EDUCATIONAL
26 SCHOLARSHIP ORGANIZATIONS OR INNOVATIVE EDUCATIONAL GRANT
27 ORGANIZATIONS APPROVED BY THE DEPARTMENT; AND

28 (7) MAKE THE LIST UNDER ITEM (6) OF THIS SUBSECTION ACCESSIBLE
29 ON THE INTERNET, UPDATE THE LIST REGULARLY, AND PROVIDE THE LIST TO THE
30 COMPTROLLER ON AN ANNUAL BASIS.

31 (F) (1) AFTER THE DEPARTMENT HAS ISSUED AN INITIAL CREDIT
32 CERTIFICATE UNDER THIS SECTION, THE BUSINESS ENTITY SHALL HAVE 30 DAYS TO
33 MAKE A CONTRIBUTION TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP
34 ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT ORGANIZATION
35 UNDER THIS SECTION.

36 (2) WITHIN 30 DAYS AFTER MAKING A CONTRIBUTION TO AN ELIGIBLE
37 EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE INNOVATIVE
38 EDUCATIONAL GRANT ORGANIZATION, A BUSINESS ENTITY SHALL PROVIDE NOTICE

1 TO THE DEPARTMENT OF THE CONTRIBUTION AND THE AMOUNT OF THE
2 CONTRIBUTION.

3 (3) IF A BUSINESS ENTITY FAILS TO MAKE A CONTRIBUTION TO AN
4 ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE
5 INNOVATIVE EDUCATIONAL GRANT ORGANIZATION WITHIN 30 DAYS AFTER
6 RECEIVING AN INITIAL CREDIT CERTIFICATE, THE DEPARTMENT SHALL RESCIND
7 THE INITIAL CREDIT CERTIFICATE.

8 (G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
9 MAXIMUM TOTAL AMOUNT OF TAX CREDITS THAT THE DEPARTMENT MAY ISSUE IN
10 INITIAL CREDIT CERTIFICATES IS \$25,000,000 IN EACH CALENDAR YEAR.

11 (2) IF AN INITIAL CREDIT CERTIFICATE HAS BEEN RESCINDED BY THE
12 DEPARTMENT, THE DEPARTMENT MAY APPROVE ADDITIONAL INITIAL CREDIT
13 CERTIFICATES FOR OTHER BUSINESS ENTITIES THAT MAY NOT EXCEED THE
14 AMOUNT OF TAX CREDITS APPROVED IN THE INITIAL CREDIT CERTIFICATES THAT
15 WERE RESCINDED.

16 (3) IN EACH CALENDAR YEAR, THE DEPARTMENT MAY NOT APPROVE
17 INITIAL CREDIT CERTIFICATES THAT:

18 (I) EXCEED \$15,000,000 FOR CONTRIBUTIONS TO ELIGIBLE
19 EDUCATION SCHOLARSHIP ORGANIZATIONS;

20 (II) EXCEED \$10,000,000 FOR CONTRIBUTIONS TO ELIGIBLE
21 INNOVATIVE EDUCATIONAL GRANT ORGANIZATIONS; OR

22 (III) EXCEED MORE THAN 25% OF THE TOTAL CREDIT AMOUNT
23 AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN A SINGLE COUNTY OR
24 BALTIMORE CITY.

25 (H) ANY UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO
26 ANY OTHER TAXABLE YEAR.

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

31 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION SHALL INCLUDE FOR EACH BUSINESS ENTITY APPROVED TO RECEIVE A
33 FINAL CREDIT CERTIFICATE IN THE PRIOR CALENDAR YEAR:

34 (I) THE NAME AND ADDRESS OF THE BUSINESS ENTITY;

35 (II) THE NAME AND ADDRESS OF THE ELIGIBLE EDUCATIONAL
36 SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT
37 ORGANIZATION RECEIVING THE CONTRIBUTION; AND

1 (III) THE AMOUNT OF THE APPROVED FINAL CREDIT CERTIFICATE.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,
4 2006.