

# HOUSE BILL 973

Q3

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CF SB 265

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By: **Delegates Proctor, Anderson, Aumann, Bartlett, Beidle, Bohanan, Bromwell, Cane, Conaway, Conway, Davis, DeBoy, Donoghue, Dumais, Elmore, Frank, Frush, Gaines, George, Glassman, Glenn, Guzzone, Hammen, Haynes, Healey, Heller, Holmes, Ivey, James, Jameson, Jennings, Krebs, Krysiak, Levi, Levy, Malone, Mathias, McHale, McIntosh, McKee, Minnick, Oaks, O'Donnell, Pena-Melnyk, Ramirez, Robinson, Schuler, Shank, Sophocleus, Stocksdale, Stukes, Tarrant, Taylor, Valderrama, Vallario, Vaughn, Weir, and Wood**

Introduced and read first time: February 9, 2007

Assigned to: Ways and Means

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## 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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 amount of certain tax credits and the aggregate amount of tax credits that may  
2 be approved by the Department in a calendar year; providing that certain  
3 unused tax credits may not be carried forward; requiring the Department to  
4 publish and update a certain list in a certain manner each year and to submit a  
5 certain report by a certain date each year; requiring a certain addition  
6 modification under the Maryland income tax if a certain tax credit is claimed;  
7 defining certain terms; providing for the application of this Act; and generally  
8 relating to a State income tax credit for contributions made to an eligible  
9 educational scholarship organization or an eligible innovative educational grant  
10 organization.

11 BY repealing and reenacting, without amendments,  
12 Article – Tax – General  
13 Section 10–205(a) and 10–306(a)  
14 Annotated Code of Maryland  
15 (2004 Replacement Volume and 2006 Supplement)

16 BY adding to  
17 Article – Tax – General  
18 Section 10–205(j), 10–306(f), and 10–726  
19 Annotated Code of Maryland  
20 (2004 Replacement Volume and 2006 Supplement)

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

23 **Article – Tax – General**

24 10–205.

25 (a) In addition to the modification under § 10–204 of this subtitle, the  
26 amounts under this section are added to the federal adjusted gross income of a  
27 resident to determine Maryland adjusted gross income.

28 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**  
29 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR A**  
30 **CONTRIBUTION MADE TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**  
31 **ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**  
32 **ORGANIZATION.**

33 10–306.

1 (a) In addition to the modification under § 10–305 of this subtitle, the  
2 amounts under this section are added to the federal taxable income of a corporation to  
3 determine Maryland modified income.

4 (F) **THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**  
5 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR A**  
6 **CONTRIBUTION MADE TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**  
7 **ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**  
8 **ORGANIZATION.**

9 **10–726.**

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

12 (2) **“BUSINESS ENTITY” MEANS:**

13 (I) **A PERSON CONDUCTING OR OPERATING A TRADE OR**  
14 **BUSINESS IN MARYLAND; OR**

15 (II) **AN ORGANIZATION OPERATING IN MARYLAND THAT IS**  
16 **EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE**  
17 **CODE.**

18 (3) **“CONTRIBUTION” MEANS A MONETARY DONATION.**

19 (4) **“DEPARTMENT” MEANS THE MARYLAND STATE**  
20 **DEPARTMENT OF EDUCATION.**

21 (5) **“ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION”**  
22 **MEANS AN ENTITY THAT:**

23 (I) **IS EXEMPT FROM FEDERAL TAXATION UNDER §**  
24 **501(C)(3) OF THE INTERNAL REVENUE CODE;**

25 (II) **PROVIDES TUITION SCHOLARSHIPS TO:**

26 1. **STUDENTS ATTENDING ELIGIBLE NONPUBLIC**  
27 **SCHOOLS IN THE STATE; AND**

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

6                   **(III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF**  
7 **THIS SECTION.**

8                   **(6) “ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**  
9 **ORGANIZATION” MEANS AN ENTITY THAT:**

10                   **(I) IS EXEMPT FROM FEDERAL TAXATION UNDER §**  
11 **501(C)(3) OF THE INTERNAL REVENUE CODE;**

12                   **(II) PROVIDES GRANTS TO:**

13                   **1. PUBLIC SCHOOLS TO SUPPORT INNOVATIVE**  
14 **EDUCATIONAL PROGRAMS THAT ARE NOT PART OF THE REGULAR ACADEMIC**  
15 **PROGRAM OF A PUBLIC SCHOOL BUT THAT ENHANCE THE CURRICULUM OR**  
16 **ACADEMIC PROGRAM OF A PUBLIC SCHOOL IN ORDER TO ACHIEVE THE GOALS**  
17 **OF THE BRIDGE TO EXCELLENCE IN PUBLIC SCHOOLS ACT OF 2002; OR**

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

23                   **(III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(2) OF**  
24 **THIS SECTION.**

25                   **(7) “ELIGIBLE NONPUBLIC SCHOOL” MEANS A KINDERGARTEN,**  
26 **ELEMENTARY, OR SECONDARY SCHOOL THAT:**

27                   **(I) HOLDS A CERTIFICATE OF APPROVAL FROM OR IS**  
28 **REGISTERED WITH THE STATE BOARD OF EDUCATION;**

1                   **(II) DOES NOT CHARGE TUITION THAT IS GREATER THAN**  
2 **THE STATEWIDE AVERAGE PER PUPIL EXPENDITURE BY THE LOCAL EDUCATION**  
3 **AGENCIES CALCULATED BY THE DEPARTMENT WITH EXCEPTIONS FOR SPECIAL**  
4 **EDUCATION STUDENTS DETERMINED BY THE DEPARTMENT TO BE**  
5 **APPROPRIATE; AND**

6                   **(III) COMPLIES WITH TITLE VI OF THE CIVIL RIGHTS ACT**  
7 **OF 1964 AS AMENDED.**

8           **(B) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, A**  
9 **BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN**  
10 **AMOUNT EQUAL TO 75% OF A CONTRIBUTION MADE TO AN ELIGIBLE**  
11 **EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE INNOVATIVE**  
12 **EDUCATIONAL GRANT ORGANIZATION.**

13                   **(2) A CREDIT CLAIMED BY A BUSINESS ENTITY UNDER THIS**  
14 **SECTION MAY NOT EXCEED \$200,000 ANNUALLY.**

15           **(C) (1) TO QUALIFY AS AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**  
16 **ORGANIZATION, AN ENTITY SHALL:**

17                   **(I) APPLY TO THE DEPARTMENT ON OR BEFORE**  
18 **DECEMBER 1 OF EACH YEAR;**

19                   **(II) PROVIDE TUITION SCHOLARSHIPS TO STUDENTS**  
20 **ATTENDING ELIGIBLE NONPUBLIC SCHOOLS OR TEACHERS WORKING AT**  
21 **ELIGIBLE NONPUBLIC SCHOOLS;**

22                   **(III) CONTRIBUTE OR IRREVOCABLY ENCUMBER:**

23                           **1. AT LEAST 85% OF ANNUAL CASH RECEIPTS**  
24 **RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS**  
25 **UNDER THIS SECTION TOWARD TUITION SCHOLARSHIPS FOR STUDENTS OR**  
26 **TEACHERS AT ELIGIBLE NONPUBLIC SCHOOLS AS PROVIDED UNDER THIS**  
27 **SECTION; AND**

28                           **2. NO MORE THAN 25% OF ANNUAL CASH RECEIPTS**  
29 **RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS**

1 UNDER THIS SECTION FOR GRANTS TO TEACHERS EMPLOYED AT ELIGIBLE  
2 NONPUBLIC SCHOOLS UNDER THIS SECTION;

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

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

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

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

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

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

20 (II) PROVIDE GRANTS TO:

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

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

1                   **(III) CONTRIBUTE OR IRREVOCABLY ENCUMBER:**

2                   **1. AT LEAST 85% OF ANNUAL CASH RECEIPTS**  
3 **RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS**  
4 **UNDER THIS SECTION FOR GRANTS TO PUBLIC SCHOOLS AND TEACHERS**  
5 **EMPLOYED AT PUBLIC SCHOOLS UNDER THIS SECTION; AND**

6                   **2. NO MORE THAN 25% OF ANNUAL CASH RECEIPTS**  
7 **RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS**  
8 **UNDER THIS SECTION FOR GRANTS TO TEACHERS EMPLOYED AT PUBLIC**  
9 **SCHOOLS UNDER THIS SECTION;**

10                   **(IV) SUBMIT TO THE DEPARTMENT THE APPLICATION AND**  
11 **REVIEW PROCESS FOR APPROVAL OF GRANTS; AND**

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

16                   **(D) AT LEAST 30 DAYS PRIOR TO MAKING A CONTRIBUTION TO AN**  
17 **ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE**  
18 **INNOVATIVE EDUCATIONAL GRANT ORGANIZATION, A BUSINESS ENTITY SHALL**  
19 **APPLY TO THE DEPARTMENT FOR AN INITIAL CREDIT CERTIFICATE.**

20                   **(E) THE DEPARTMENT SHALL:**

21                   **(1) ADOPT REGULATIONS JOINTLY WITH THE COMPTROLLER TO**  
22 **IMPLEMENT THIS SECTION;**

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

25                   **(3) WITHIN 60 DAYS AFTER RECEIPT, APPROVE OR REJECT AN**  
26 **ENTITY'S APPLICATION TO BECOME AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**  
27 **ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**  
28 **ORGANIZATION;**

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

6           **(5) WITHIN 30 DAYS AFTER RECEIVING NOTICE OF A**  
7 **CONTRIBUTION MADE TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**  
8 **ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**  
9 **ORGANIZATION, ISSUE A FINAL CREDIT CERTIFICATE AS PROVIDED UNDER THIS**  
10 **SECTION;**

11           **(6) PUBLISH AN ANNUAL LIST OF ALL ELIGIBLE EDUCATIONAL**  
12 **SCHOLARSHIP ORGANIZATIONS OR INNOVATIVE EDUCATIONAL GRANT**  
13 **ORGANIZATIONS APPROVED BY THE DEPARTMENT; AND**

14           **(7) MAKE THE LIST UNDER ITEM (6) OF THIS SUBSECTION**  
15 **ACCESSIBLE ON THE INTERNET, UPDATE THE LIST REGULARLY, AND PROVIDE**  
16 **THE LIST TO THE COMPTROLLER ON AN ANNUAL BASIS.**

17           **(F) (1) AFTER THE DEPARTMENT HAS ISSUED AN INITIAL CREDIT**  
18 **CERTIFICATE UNDER THIS SECTION, THE BUSINESS ENTITY SHALL HAVE 30**  
19 **DAYS TO MAKE A CONTRIBUTION TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**  
20 **ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**  
21 **ORGANIZATION UNDER THIS SECTION.**

22           **(2) WITHIN 30 DAYS AFTER MAKING A CONTRIBUTION TO AN**  
23 **ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE**  
24 **INNOVATIVE EDUCATIONAL GRANT ORGANIZATION, A BUSINESS ENTITY SHALL**  
25 **PROVIDE NOTICE TO THE DEPARTMENT OF THE CONTRIBUTION AND THE**  
26 **AMOUNT OF THE CONTRIBUTION.**

27           **(3) IF A BUSINESS ENTITY FAILS TO MAKE A CONTRIBUTION TO**  
28 **AN ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE**  
29 **INNOVATIVE EDUCATIONAL GRANT ORGANIZATION WITHIN 30 DAYS AFTER**  
30 **RECEIVING AN INITIAL CREDIT CERTIFICATE, THE DEPARTMENT SHALL**  
31 **RESCIND THE INITIAL CREDIT CERTIFICATE.**



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

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

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

12                   (I) EXCEED \$15,000,000 FOR CONTRIBUTIONS TO ELIGIBLE  
13 EDUCATIONAL SCHOLARSHIP ORGANIZATIONS;

14                   (II) EXCEED \$10,000,000 FOR CONTRIBUTIONS TO ELIGIBLE  
15 INNOVATIVE EDUCATIONAL GRANT ORGANIZATIONS;

16                   (III) EXCEED MORE THAN 25% OF THE TOTAL CREDIT  
17 AMOUNT AUTHORIZED UNDER ITEM (3)(I) OF THIS PARAGRAPH FOR  
18 CONTRIBUTIONS TO ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATIONS,  
19 IN A SINGLE COUNTY OR BALTIMORE CITY; OR

20                   (IV) EXCEED MORE THAN 25% OF THE TOTAL CREDIT  
21 AMOUNT AUTHORIZED UNDER ITEM (3)(II) OF THIS PARAGRAPH FOR  
22 CONTRIBUTIONS TO ELIGIBLE INNOVATIVE EDUCATIONAL GRANT  
23 ORGANIZATIONS IN A SINGLE COUNTY OR BALTIMORE CITY.

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

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

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

4                   **(I) THE NAME AND ADDRESS OF THE BUSINESS ENTITY;**

5                   **(II) THE NAME AND ADDRESS OF THE ELIGIBLE**  
6 **EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE INNOVATIVE**  
7 **EDUCATIONAL GRANT ORGANIZATION RECEIVING THE CONTRIBUTION; AND**

8                   **(III) THE AMOUNT OF THE APPROVED FINAL CREDIT**  
9 **CERTIFICATE.**

10           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 July 1, 2007, and shall be applicable to all taxable years beginning after December 31,  
12 2007.