

SENATE BILL 265

Q3

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By: **Senators DeGrange, Astle, Brinkley, Currie, Della, Dyson, Hogan, Jones, Klausmeier, Kramer, McFadden, Middleton, Miller, Munson, Peters, Robey, Stoltzfus, and Stone**

Introduced and read first time: January 29, 2007

Assigned to: Budget and Taxation

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; requiring a certain addition

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 modification under the Maryland income tax if a certain tax credit is claimed;
 2 defining certain terms; providing for the application of this Act; and generally
 3 relating to a State income tax credit for contributions made to an eligible
 4 educational scholarship organization or an eligible innovative educational grant
 5 organization.

6 BY repealing and reenacting, without amendments,
 7 Article – Tax – General
 8 Section 10–205(a) and 10–306(a)
 9 Annotated Code of Maryland
 10 (2004 Replacement Volume and 2006 Supplement)

11 BY adding to
 12 Article – Tax – General
 13 Section 10–205(j), 10–306(f), and 10–726
 14 Annotated Code of Maryland
 15 (2004 Replacement Volume and 2006 Supplement)

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

18 **Article – Tax – General**

19 10–205.

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

23 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
 24 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR A**
 25 **CONTRIBUTION MADE TO AN ELIGIBLE EDUCATIONAL SCHOLARSHIP**
 26 **ORGANIZATION OR AN ELIGIBLE INNOVATIVE EDUCATIONAL GRANT**
 27 **ORGANIZATION.**

28 10–306.

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

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

6 **10-726.**

7 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
8 **MEANINGS INDICATED.**

9 **(2) “BUSINESS ENTITY” MEANS:**

10 **(I) A PERSON CONDUCTING OR OPERATING A TRADE OR**
11 **BUSINESS IN MARYLAND; OR**

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

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

16 **(4) “DEPARTMENT” MEANS THE MARYLAND STATE**
17 **DEPARTMENT OF EDUCATION.**

18 **(5) “ELIGIBLE EDUCATIONAL SCHOLARSHIP ORGANIZATION”**
19 **MEANS AN ENTITY THAT:**

20 **(I) IS EXEMPT FROM FEDERAL TAXATION UNDER §**
21 **501(C)(3) OF THE INTERNAL REVENUE CODE;**

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

23 **1. STUDENTS ATTENDING ELIGIBLE NONPUBLIC**
24 **SCHOOLS IN THE STATE; AND**

25 **2. TEACHERS AT ELIGIBLE NONPUBLIC SCHOOLS IN**
26 **THE STATE FOR THE PURPOSE OF ASSISTING IN THE COST OF GRADUATE-LEVEL**
27 **COURSE WORK OR CONTINUING PROFESSIONAL DEVELOPMENT PROGRAMS TO**

1 **MEET OR RETAIN STATE CERTIFICATION OR CERTIFICATION BY THE NATIONAL**
2 **BOARD FOR PROFESSIONAL TEACHING STANDARDS; AND**

3 **(III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF**
4 **THIS SECTION.**

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

7 **(I) IS EXEMPT FROM FEDERAL TAXATION UNDER §**
8 **501(C)(3) OF THE INTERNAL REVENUE CODE;**

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

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

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

20 **(III) MEETS THE REQUIREMENTS OF SUBSECTION (C)(2) OF**
21 **THIS SECTION.**

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

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

26 **(II) DOES NOT CHARGE TUITION THAT IS GREATER THAN**
27 **THE STATEWIDE AVERAGE PER PUPIL EXPENDITURE BY THE LOCAL EDUCATION**
28 **AGENCIES CALCULATED BY THE DEPARTMENT WITH EXCEPTIONS FOR SPECIAL**

1 EDUCATION STUDENTS DETERMINED BY THE DEPARTMENT TO BE
2 APPROPRIATE; AND

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

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

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

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

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

16 (II) PROVIDE TUITION SCHOLARSHIPS TO STUDENTS
17 ATTENDING ELIGIBLE NONPUBLIC SCHOOLS OR TEACHERS WORKING AT
18 ELIGIBLE NONPUBLIC SCHOOLS;

19 (III) CONTRIBUTE OR IRREVOCABLY ENCUMBER:

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

25 2. NO MORE THAN 25% OF ANNUAL CASH RECEIPTS
26 RECEIVED AS THE RESULT OF CONTRIBUTIONS APPROVED FOR TAX CREDITS
27 UNDER THIS SECTION FOR GRANTS TO TEACHERS EMPLOYED AT ELIGIBLE
28 NONPUBLIC 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
4 TO STUDENT APPLICANTS WHO ARE ELIGIBLE FOR FREE AND REDUCED PRICE
5 MEALS BASED ON ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE UNITED
6 STATES DEPARTMENT OF AGRICULTURE AND THEN TO OTHER STUDENT
7 APPLICANTS BASED ON FINANCIAL NEED;

8 (VI) SUBMIT TO THE DEPARTMENT THE APPLICATION AND
9 REVIEW 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
12 ELIGIBILITY UNDER THIS PARAGRAPH HAVE BEEN MET IN THE PRIOR
13 CALENDAR YEAR.

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

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

18 (II) PROVIDE GRANTS TO:

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

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

29 (III) CONTRIBUTE OR IRREVOCABLY ENCUMBER:

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

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

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

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

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

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

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

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

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

28 **(4) WITHIN 30 DAYS AFTER RECEIVING AN APPLICATION, ISSUE**
29 **AN INITIAL TAX CREDIT CERTIFICATE AS PROVIDED UNDER THIS SECTION**
30 **STATING THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR WHICH A BUSINESS**

1 ENTITY IS ELIGIBLE OR PROVIDE NOTICE OF REJECTION OF THE APPLICATION
2 THAT CONTAINS AN EXPLANATION OF THE REASON FOR REJECTION;

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

8 (6) PUBLISH AN ANNUAL LIST OF ALL ELIGIBLE EDUCATIONAL
9 SCHOLARSHIP ORGANIZATIONS OR INNOVATIVE EDUCATIONAL GRANT
10 ORGANIZATIONS APPROVED BY THE DEPARTMENT; AND

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

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

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

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

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

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

6 **(3) IN EACH CALENDAR YEAR, THE DEPARTMENT MAY NOT**
7 **APPROVE INITIAL CREDIT CERTIFICATES THAT:**

8 **(I) EXCEED \$15,000,000 FOR CONTRIBUTIONS TO ELIGIBLE**
9 **EDUCATIONAL SCHOLARSHIP ORGANIZATIONS;**

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

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

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

20 **(H) ANY UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER**
21 **TO ANY OTHER TAXABLE YEAR.**

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

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

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

1 **(II) THE NAME AND ADDRESS OF THE ELIGIBLE**
2 **EDUCATIONAL SCHOLARSHIP ORGANIZATION OR AN ELIGIBLE INNOVATIVE**
3 **EDUCATIONAL GRANT ORGANIZATION RECEIVING THE CONTRIBUTION; AND**

4 **(III) THE AMOUNT OF THE APPROVED FINAL CREDIT**
5 **CERTIFICATE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2007, and shall be applicable to all taxable years beginning after December 31,
8 2007.