

SENATE BILL 428

Q3
SB 739/06 – B&T

71r2372

By: **Senator McFadden**

Introduced and read first time: February 2, 2007

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
23 income tax credit for certain eligible expenses of corporations that locate to a
24 higher education–affiliated research park.

25 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General
2 Section 10–726
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2006 Supplement)

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

7 **Article – Tax – General**

8 **10–726.**

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

11 (2) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND
12 ECONOMIC DEVELOPMENT.

13 (3) “ELIGIBLE COSTS” MEANS COSTS AND EXPENSES INCURRED
14 BY A BUSINESS ENTITY IN CONNECTION WITH LOCATING IN A HIGHER
15 EDUCATION–AFFILIATED RESEARCH PARK AS DEFINED BY THE DEPARTMENT IN
16 REGULATION INCLUDING COSTS ASSOCIATED WITH:

17 (I) INSTALLATION, CONSTRUCTION, AND EQUIPPING OF
18 SPACE IN THE RESEARCH PARK FOR A SPECIFIC PURPOSE RELATED TO
19 RESEARCH AND DEVELOPMENT; AND

20 (II) RENTAL OR LEASING COSTS RELATED TO THE FIRST 6
21 MONTHS OF OCCUPATION OF SPACE IN THE RESEARCH PARK.

22 (4) “HIGHER EDUCATION–AFFILIATED RESEARCH PARK” MEANS
23 A PROPERTY–BASED VENTURE LOCATED IN THE STATE THAT HAS:

24 (I) EXISTING OR PLANNED LAND AND BUILDINGS DESIGNED
25 PRIMARILY FOR RESEARCH AND DEVELOPMENT FACILITIES, HIGH TECHNOLOGY
26 AND SCIENCE–BASED COMPANIES, AND SUPPORT SERVICES;

27 (II) A CONTRACTUAL OR FORMAL OWNERSHIP OR
28 OPERATIONAL RELATIONSHIP WITH ONE OR MORE INSTITUTIONS OF HIGHER
29 EDUCATION;

1 (III) A ROLE IN PROMOTING RESEARCH AND DEVELOPMENT
2 BY INSTITUTIONS OF HIGHER EDUCATION IN PARTNERSHIP WITH INDUSTRY,
3 ASSISTING IN THE GROWTH OF NEW VENTURES, AND PROMOTING ECONOMIC
4 DEVELOPMENT; AND

5 (IV) A ROLE IN AIDING THE TRANSFER OF TECHNOLOGY AND
6 BUSINESS SKILLS BETWEEN AN INSTITUTION OF HIGHER EDUCATION AND
7 INDUSTRY TENANTS.

8 (5) "INSTITUTION OF HIGHER EDUCATION" MEANS AN
9 INSTITUTION OF HIGHER EDUCATION AS DEFINED IN § 10-101 OF THE
10 EDUCATION ARTICLE THAT IS:

11 (I) A PUBLIC OR PRIVATE NONPROFIT INSTITUTION OF
12 HIGHER EDUCATION;

13 (II) APPROVED BY THE MARYLAND HIGHER EDUCATION
14 COMMISSION; AND

15 (III) ACCREDITED BY THE COMMISSION ON HIGHER
16 EDUCATION OF THE MIDDLE STATES ASSOCIATION OF COLLEGES AND
17 SCHOOLS.

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

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

26 (D) THE DEPARTMENT SHALL:

27 (1) ADOPT REGULATIONS JOINTLY WITH THE COMPTROLLER TO
28 IMPLEMENT THIS SECTION;

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

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

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

10 **(E) (1) AFTER THE DEPARTMENT HAS ISSUED AN INITIAL CREDIT**
11 **CERTIFICATE UNDER THIS SECTION, THE BUSINESS ENTITY SHALL HAVE 120**
12 **DAYS TO LOCATE IN A HIGHER EDUCATION-AFFILIATED RESEARCH PARK**
13 **UNDER THIS SECTION.**

14 **(2) WITHIN 60 DAYS AFTER LOCATING TO A HIGHER**
15 **EDUCATION-AFFILIATED RESEARCH PARK, A BUSINESS ENTITY SHALL PROVIDE**
16 **NOTICE TO THE DEPARTMENT OF THE LOCATION AND THE AMOUNT OF**
17 **ELIGIBLE COSTS.**

18 **(3) IF A BUSINESS ENTITY FAILS TO LOCATE IN A HIGHER**
19 **EDUCATION-AFFILIATED RESEARCH PARK WITHIN 120 DAYS OR FAILS TO**
20 **PROVIDE NOTICE WITHIN 60 DAYS AFTER LOCATING TO A HIGHER**
21 **EDUCATION-AFFILIATED RESEARCH PARK, THE DEPARTMENT SHALL RESCIND**
22 **THE INITIAL CREDIT CERTIFICATE.**

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

27 **(2) IF AN INITIAL CREDIT CERTIFICATE HAS BEEN RESCINDED BY**
28 **THE DEPARTMENT, THE DEPARTMENT MAY APPROVE ADDITIONAL INITIAL**
29 **CREDIT CERTIFICATES FOR OTHER BUSINESS ENTITIES THAT MAY NOT EXCEED**
30 **THE AMOUNT OF TAX CREDITS APPROVED IN THE INITIAL CREDIT**
31 **CERTIFICATES THAT WERE RESCINDED.**

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

4 **(G) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**
5 **YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A**
6 **CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE**
7 **INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:**

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

9 **(2) THE EXPIRATION OF THE THIRD TAXABLE YEAR AFTER THE**
10 **TAXABLE YEAR IN WHICH THE ELIGIBLE COSTS WERE INCURRED.**

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

13 **(2) A CREDIT MAY NOT BE TRANSFERRED UNDER THIS**
14 **SUBSECTION UNLESS THE BUSINESS ENTITY TRANSFERRING THE CREDIT**
15 **NOTIFIES THE DEPARTMENT OF THE NAME OF THE TRANSFEREE AND THE**
16 **AMOUNT OF THE CREDIT THAT WAS TRANSFERRED WITHIN 30 DAYS AFTER THE**
17 **EFFECTIVE DATE OF THE TRANSFER.**

18 **(3) A BUSINESS ENTITY TO WHOM ANY CREDIT IS TRANSFERRED**
19 **BY ANOTHER BUSINESS ENTITY UNDER THIS SUBSECTION:**

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

23 **(II) SHALL BE ENTITLED TO RELY IN GOOD FAITH ON**
24 **INFORMATION ON WHICH THE CREDIT IS BASED, INCLUDING THE AMOUNT OF**
25 **ELIGIBLE COSTS.**

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, TO 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 CORPORATION APPROVED TO RECEIVE**
3 **A CREDIT IN THE PRIOR CALENDAR YEAR:**

4 **(I) THE NAME OF THE CORPORATION;**

5 **(II) THE NAME AND ADDRESS OF THE HIGHER**
6 **EDUCATION-AFFILIATED RESEARCH PARK WHERE THE CORPORATION IS**
7 **LOCATED;**

8 **(III) THE AMOUNT OF THE APPROVED CREDIT; AND**

9 **(IV) IF THE APPROVED CREDIT WAS TRANSFERRED BY A**
10 **CORPORATION, THE AMOUNT OF THE CREDIT TRANSFERRED AND THE NAME**
11 **AND ADDRESS OF THE BUSINESS ENTITY TO WHOM THE CREDIT WAS**
12 **TRANSFERRED.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2007, and shall be applicable to all taxable years beginning after December 31,
15 2006.