

# HOUSE BILL 854

Q3

8lr1513  
CF SB 298

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By: **Delegates Frick, Hixson, Bartlett, Barve, Cardin, Doory, Elmore, George, Gilchrist, Howard, Ivey, Jennings, Kaiser, Krebs, Manno, McKee, Murphy, Olszewski, Rice, Ross, Stukes, F. Turner, and Walker**

Introduced and read first time: February 6, 2008

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Credit for Providing Adult Literacy Programs**

3 FOR the purpose of allowing certain business entities a certain credit against the  
4 State income tax for certain taxable years for a certain amount of the cost of  
5 adult literacy services provided to an employee; limiting to a certain amount the  
6 total amount of credits a business entity may claim in any taxable year;  
7 providing that the credit may be refundable under certain circumstances;  
8 providing for the issuance of certain initial credit certificates by the State  
9 Superintendent of Schools, subject to certain requirements and limitations, for  
10 certain fiscal years; providing certain limits on the amount of credits that can be  
11 claimed; requiring the State Superintendent to issue final credit certificates  
12 under certain circumstances; establishing the Adult Literacy Services Tax  
13 Credit Reserve Fund; limiting the credit amounts in the aggregate for which the  
14 State Superintendent may issue initial credit certificates for any fiscal year;  
15 authorizing the Governor to include certain appropriations to a certain fund in  
16 the annual budget bill for certain fiscal years; requiring the Comptroller to  
17 transfer certain amounts from a certain fund to the General Fund under certain  
18 circumstances; requiring the State Superintendent to submit certain reports;  
19 requiring the State Superintendent to adopt certain regulations; defining  
20 certain terms; and generally relating to a tax credit against the State income  
21 tax for certain costs associated with adult literacy services.

22 BY adding to

23 Article – Tax – General

24 Section 10–726

25 Annotated Code of Maryland

26 (2004 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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  
6 MEANINGS INDICATED.

7 (2) "ADULT LITERACY SERVICES" INCLUDES:

8 (I) BASIC SKILLS AND LITERACY INSTRUCTION; AND

9 (II) ENGLISH FOR SPEAKERS OF OTHER LANGUAGES.

10 (3) "BUSINESS ENTITY" MEANS:

11 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR  
12 BUSINESS; OR

13 (II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION  
14 UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

15 (4) "COST OF INSTRUCTION" MEANS THE EXPENDITURES  
16 INCURRED BY A BUSINESS ENTITY TO PROVIDE ADULT LITERACY SERVICES TO  
17 ITS EMPLOYEES AT THE WORK SITE OR IN AN EDUCATIONAL OR COMMUNITY  
18 SETTING.

19 (5) "STATE SUPERINTENDENT" MEANS THE STATE  
20 SUPERINTENDENT OF SCHOOLS.

21 (6) "TAX CREDIT" MEANS THE ADULT LITERACY SERVICES TAX  
22 CREDITS AUTHORIZED UNDER THIS SECTION.

23 (B) (1) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A  
24 BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN  
25 AMOUNT EQUAL TO THE FINAL CREDIT CERTIFICATE APPROVED BY THE STATE  
26 SUPERINTENDENT FOR ADULT LITERACY SERVICES PROVIDED DURING THE  
27 TAXABLE YEAR.

28 (2) A BUSINESS ENTITY THAT IS EXEMPT FROM TAXATION UNDER  
29 § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY CLAIM THE CREDIT  
30 AGAINST THE STATE INCOME TAX DUE ON UNRELATED BUSINESS INCOME AS  
31 PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS TITLE.

1           (c) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE ADULT  
2 LITERACY SERVICES TAX CREDIT RESERVE FUND ESTABLISHED UNDER  
3 PARAGRAPH (2) OF THIS SUBSECTION.

4           (2) (I) THERE IS AN ADULT LITERACY SERVICES TAX CREDIT  
5 RESERVE FUND THAT IS A SPECIAL, CONTINUING, NONLAPSING FUND NOT  
6 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7           (II) THE MONEY IN THE FUND SHALL BE INVESTED AND  
8 REINVESTED BY THE STATE TREASURER, AND INTEREST AND EARNINGS SHALL  
9 BE CREDITED TO THE GENERAL FUND.

10           (3) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE  
11 STATE SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR  
12 EACH BUSINESS ENTITY FOR WHICH TAX CREDITS ARE APPROVED.

13           (II) AN INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS  
14 SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF CREDIT UNDER THIS  
15 SECTION FOR WHICH THE BUSINESS ENTITY MAY QUALIFY.

16           (III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS  
17 SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE STATE SUPERINTENDENT MAY  
18 NOT ISSUE INITIAL CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE  
19 AGGREGATE TOTALING MORE THAN THE SUM OF:

20           A. THE LESSER OF \$1,000,000 OR THE AMOUNT  
21 APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE  
22 BUDGET AS APPROVED BY THE GENERAL ASSEMBLY; AND

23           B. ANY BALANCE CARRIED FORWARD FROM THE  
24 PREVIOUS FISCAL YEAR.

25           2. IF THE AGGREGATE CREDIT AMOUNTS UNDER  
26 INITIAL CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR ARE LESS THAN  
27 \$1,000,000 AND ARE LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE  
28 FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE  
29 RESERVE FUND AND MAY BE ISSUED UNDER INITIAL CREDIT CERTIFICATES  
30 FOR THE NEXT FISCAL YEAR.

31           3. FOR ANY FISCAL YEAR, IF FUNDS ARE  
32 TRANSFERRED FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY  
33 PROVISION OF LAW OTHER THAN PARAGRAPH (5) OF THIS SUBSECTION, THE  
34 MAXIMUM CREDIT AMOUNTS IN THE AGGREGATE FOR WHICH THE STATE

1 SUPERINTENDENT MAY ISSUE INITIAL CREDIT CERTIFICATES SHALL BE  
2 REDUCED BY THE AMOUNT TRANSFERRED.

3 (IV) FOR EACH OF FISCAL YEARS 2010, 2011, AND 2012, THE  
4 GOVERNOR MAY INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE  
5 RESERVE FUND.

6 (V) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF  
7 THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT  
8 REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS  
9 APPROVED BY THE GENERAL ASSEMBLY.

10 (VI) THE STATE SUPERINTENDENT MAY NOT ISSUE AN  
11 INITIAL CREDIT CERTIFICATE FOR ANY FISCAL YEAR AFTER FISCAL YEAR 2012.

12 (4) BASED ON ACTUAL EXPENDITURES FOR THE COST OF  
13 INSTRUCTION FOR ADULT LITERACY SERVICES, THE STATE SUPERINTENDENT  
14 SHALL ISSUE A FINAL CREDIT CERTIFICATE TO THE BUSINESS ENTITY.

15 (5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY  
16 APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE FUND.

17 (II) 1. WITHIN 15 DAYS AFTER THE END OF EACH  
18 CALENDAR QUARTER, THE STATE SUPERINTENDENT SHALL NOTIFY THE  
19 COMPTROLLER AS TO EACH TAX CREDIT CERTIFIED DURING THE QUARTER:

20 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE  
21 INITIAL CREDIT CERTIFICATE FOR THE BUSINESS ENTITY; AND

22 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE  
23 BUSINESS ENTITY.

24 2. ON NOTIFICATION THAT A BUSINESS ENTITY HAS  
25 RECEIVED FINAL CERTIFICATION, THE COMPTROLLER SHALL TRANSFER AN  
26 AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE FINAL CREDIT  
27 CERTIFICATE FOR THE BUSINESS ENTITY FROM THE RESERVE FUND TO THE  
28 GENERAL FUND.

29 (D) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, EACH FISCAL  
30 YEAR THE STATE SUPERINTENDENT SHALL CERTIFY TAX CREDITS TO BE  
31 AWARDED TO BUSINESS ENTITIES FOR THE COST OF INSTRUCTION FOR ADULT  
32 LITERACY SERVICES.

1           **(2) BETWEEN APRIL 1 AND OCTOBER 31 OF EACH YEAR, THE**  
2 **STATE SUPERINTENDENT MAY ACCEPT APPLICATIONS FOR A TAX CREDIT FOR**  
3 **THE FISCAL YEAR THAT BEGINS JULY 1 OF THAT YEAR.**

4           **(3) NOT MORE THAN 50% OF THE MAXIMUM AMOUNT OF TAX**  
5 **CREDITS CERTIFIED BY THE STATE SUPERINTENDENT FOR ANY FISCAL YEAR**  
6 **MAY BE ISSUED FOR ADULT LITERACY SERVICES PROVIDED IN A SINGLE**  
7 **COUNTY OR BALTIMORE CITY.**

8           **(4) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**  
9 **STATE SUPERINTENDENT SHALL APPROVE CREDITS UNDER THIS SECTION**  
10 **BASED ON NEED AND PERFORMANCE.**

11           **(5) BETWEEN JULY 1 AND DECEMBER 31 OF EACH YEAR, THE**  
12 **STATE SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR**  
13 **EACH BUSINESS ENTITY FOR WHICH A TAX CREDIT IS APPROVED FOR THE**  
14 **FISCAL YEAR THAT BEGINS JULY 1 OF THAT YEAR.**

15           **(6) TO CLAIM A TAX CREDIT UNDER THIS SECTION, A BUSINESS**  
16 **ENTITY SHALL ATTACH A COPY OF THE STATE SUPERINTENDENT'S**  
17 **CERTIFICATION OF THE TAX CREDIT TO THE BUSINESS ENTITY'S INCOME TAX**  
18 **RETURN.**

19           **(7) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY**  
20 **TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY A BUSINESS**  
21 **ENTITY FOR THAT TAXABLE YEAR, THE BUSINESS ENTITY MAY CLAIM A REFUND**  
22 **IN THE AMOUNT OF THE EXCESS.**

23           **(8) FOR EACH BUSINESS ENTITY, THE TAX CREDIT CERTIFIED BY**  
24 **THE STATE SUPERINTENDENT IN A FISCAL YEAR MAY NOT EXCEED THE LESSER**  
25 **OF:**

26                   **(I) 35% OF THE COST OF INSTRUCTION FOR ADULT**  
27 **LITERACY SERVICES PROVIDED TO EMPLOYEES DURING THE FISCAL YEAR;**

28                   **(II) \$150 TIMES THE NUMBER OF EMPLOYEES RECEIVING**  
29 **ADULT LITERACY SERVICES; OR**

30                   **(III) \$25,000.**

31           **(E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE STATE**  
32 **SUPERINTENDENT SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO**  
33 **§ 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A**  
34 **REPORT ON THE TAX CREDITS CERTIFIED UNDER THIS SECTION FOR THE**  
35 **PREVIOUS FISCAL YEAR, INCLUDING:**

1           **(1) THE TOTAL NUMBER OF BUSINESS ENTITIES THAT APPLIED**  
2 **FOR THE TAX CREDITS UNDER THIS SECTION AND THE TOTAL NUMBER OF**  
3 **BUSINESS ENTITIES CERTIFIED; AND**

4           **(2) THE NAME AND PHYSICAL LOCATION OF EACH BUSINESS**  
5 **ENTITY APPROVED FOR THE TAX CREDITS AND THE NUMBER OF EMPLOYEES**  
6 **RECEIVING ADULT LITERACY SERVICES.**

7           **(F) THE STATE SUPERINTENDENT SHALL ADOPT REGULATIONS**  
8 **NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.**

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 July 1, 2008.