

SENATE BILL 298

Q3

8lr1514
CF 8lr1513

By: **Senators King, Astle, Currie, DeGrange, Garagiola, Lenett, Madaleno, Peters, Pugh, Raskin, Robey, and Rosapepe**
Introduced and read first time: January 25, 2008
Assigned to: Budget and Taxation

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)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

10-726.

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

(2) “ADULT LITERACY SERVICES” INCLUDES:

(I) BASIC SKILLS AND LITERACY INSTRUCTION; AND

(II) ENGLISH FOR SPEAKERS OF OTHER LANGUAGES.

(3) “BUSINESS ENTITY” MEANS:

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

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

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

(5) “STATE SUPERINTENDENT” MEANS THE STATE SUPERINTENDENT OF SCHOOLS.

(6) “TAX CREDIT” MEANS THE ADULT LITERACY SERVICES TAX CREDITS AUTHORIZED UNDER THIS SECTION.

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

(2) A BUSINESS ENTITY THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY CLAIM THE CREDIT AGAINST THE STATE INCOME TAX DUE ON UNRELATED BUSINESS INCOME AS 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
35 SUPERINTENDENT MAY ISSUE INITIAL CREDIT CERTIFICATES SHALL BE
36 REDUCED BY THE AMOUNT TRANSFERRED.

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

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

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

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

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

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

18 A. THE MAXIMUM CREDIT AMOUNT STATED IN THE
19 INITIAL CREDIT CERTIFICATE FOR THE BUSINESS ENTITY; AND

20 B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE
21 BUSINESS ENTITY.

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

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

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

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

5 (4) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
6 STATE SUPERINTENDENT SHALL APPROVE CREDITS UNDER THIS SECTION
7 BASED ON NEED AND PERFORMANCE.

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

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

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

20 (8) FOR EACH BUSINESS ENTITY, THE TAX CREDIT CERTIFIED BY
21 THE STATE SUPERINTENDENT IN A FISCAL YEAR MAY NOT EXCEED THE LESSER
22 OF:

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

25 (II) \$150 TIMES THE NUMBER OF EMPLOYEES RECEIVING
26 ADULT LITERACY SERVICES; OR

27 (III) \$25,000.

28 (E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE STATE
29 SUPERINTENDENT SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO
30 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A
31 REPORT ON THE TAX CREDITS CERTIFIED UNDER THIS SECTION FOR THE
32 PREVIOUS FISCAL YEAR, INCLUDING:

33 (1) THE TOTAL NUMBER OF BUSINESS ENTITIES THAT APPLIED
34 FOR THE TAX CREDITS UNDER THIS SECTION AND THE TOTAL NUMBER OF
35 BUSINESS ENTITIES CERTIFIED; AND

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

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

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