

SENATE BILL 2

Q7, F2, Q3

5lr0368

(PRE-FILED)

By: **Senator McFadden**

Requested: August 26, 2014

Introduced and read first time: January 14, 2015

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education Investment Tax Credit Program**

3 FOR the purpose of establishing the Higher Education Investment Tax Credit Program to
4 authorize tax credits against the State income tax, public service company franchise
5 tax, and insurance premium tax for certain donations to certain eligible higher
6 education institutions; stating the purpose of the Program; requiring the donations
7 to be used for certain purposes in certain areas; authorizing, each year, the Maryland
8 Higher Education Commission to allocate up to a certain amount of tax credits to
9 eligible higher education institutions; requiring the Commission to adopt a
10 competitive application process to award the tax credits; requiring the application to
11 include certain information; establishing a process for the issuance of tax credit
12 certificates; providing for the amount of the tax credit; providing that the tax credit
13 allowed for any taxable year may not exceed the amount of tax otherwise payable;
14 providing for the carry forward of excess tax credits; requiring certain entities to
15 provide certain reports; requiring the Commission to adopt certain regulations;
16 defining certain terms; providing for the application of this Act; and generally
17 relating to tax credits for certain donations to certain higher education institutions.

18 BY repealing and reenacting, without amendments,
19 Article – Education
20 Section 1–101(a) and (f) and 10–101(a) and (c)
21 Annotated Code of Maryland
22 (2014 Replacement Volume and 2014 Supplement)

23 BY adding to
24 Article – Education
25 Section 17–401 through 17–406 to be under the new subtitle “Subtitle 17. Higher
26 Education Investment Tax Credit”
27 Annotated Code of Maryland
28 (2014 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Tax – General
3 Section 8–418 and 10–737
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2014 Supplement)

6 BY adding to
7 Article – Insurance
8 Section 6–123
9 Annotated Code of Maryland
10 (2011 Replacement Volume and 2014 Supplement)

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

13 **Article – Education**

14 1–101.

15 (a) In this article, unless the context requires otherwise, the following words have
16 the meanings indicated.

17 (f) “Department” means the State Department of Education.

18 10–101.

19 (a) In this division the following words have the meanings indicated.

20 (c) “Commission” means the Maryland Higher Education Commission.

21 **SUBTITLE 17. HIGHER EDUCATION INVESTMENT TAX CREDIT.**

22 **17–401.**

23 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
24 **INDICATED.**

25 **(B) (1) “DONATION” MEANS AN IRREVOCABLE GIFT WORTH AT LEAST**
26 **\$25,000 OF:**

27 **(I) MONEY;**

28 **(II) GOODS; OR**

29 **(III) REAL PROPERTY.**

1 (2) “DONATION” DOES NOT INCLUDE A CONTRIBUTION OF SERVICES
2 OR LABOR.

3 (C) “ELIGIBLE DONOR” MEANS:

4 (1) A BUSINESS ENTITY THAT CONDUCTS A TRADE OR BUSINESS IN
5 THE STATE; OR

6 (2) AN INDIVIDUAL WHO PAYS STATE TAXES AND WHO:

7 (I) IS DOMICILED IN THE STATE ON THE LAST DAY OF THE
8 TAXABLE YEAR; OR

9 (II) MAINTAINS A PLACE OF ABODE IN THE STATE FOR MORE
10 THAN 6 MONTHS OF THE TAXABLE YEAR AND IS PHYSICALLY PRESENT IN THE STATE
11 FOR AT LEAST 183 DAYS DURING THE TAXABLE YEAR.

12 (D) “ELIGIBLE HIGHER EDUCATION INSTITUTION” MEANS AN
13 ORGANIZATION THAT:

14 (1) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL
15 REVENUE CODE;

16 (2) ENGAGES IN A PROJECT OR AN ACTIVITY THAT IS IN OR PROVIDES
17 SERVICES TO A COMMUNITY IN A PRIORITY FUNDING AREA; AND

18 (3) IS IN GOOD STANDING WITH:

19 (I) THE OFFICE OF THE SECRETARY OF STATE; AND

20 (II) THE STATE DEPARTMENT OF ASSESSMENTS AND
21 TAXATION.

22 (E) “PRIORITY FUNDING AREA” MEANS A PRIORITY FUNDING AREA UNDER
23 § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
24 17-402.

25 (A) THERE IS A HIGHER EDUCATION INVESTMENT TAX CREDIT PROGRAM.

26 (B) THE PURPOSE OF THE HIGHER EDUCATION INVESTMENT TAX CREDIT
27 PROGRAM IS TO SUPPORT PRIVATE NONPROFIT HIGHER EDUCATION INSTITUTIONS

1 BY PROVIDING STATE TAX CREDITS FOR USE AS INCENTIVES TO ATTRACT
2 DONATIONS FROM INDIVIDUALS AND BUSINESS ENTITIES TO BENEFIT THE
3 PROJECTS AND SERVICES OF PRIVATE NONPROFIT HIGHER EDUCATION
4 INSTITUTIONS.

5 17-403.

6 (A) EACH YEAR THE COMMISSION MAY ALLOCATE \$20,000,000 IN TAX
7 CREDITS TO ELIGIBLE HIGHER EDUCATION INSTITUTIONS.

8 (B) THE COMMISSION SHALL ADOPT A COMPETITIVE APPLICATION
9 PROCESS TO AWARD THE TAX CREDITS.

10 (C) (1) THE APPLICATION SHALL INCLUDE A DESCRIPTION OF THE
11 PROJECT OR SERVICES FOR WHICH THE ELIGIBLE HIGHER EDUCATION INSTITUTION
12 IS SOLICITING DONATIONS.

13 (2) THE PROJECT OR SERVICES MUST BENEFIT A PRIORITY FUNDING
14 AREA AND MAY INCLUDE ACTIVITIES THAT INVOLVE:

15 (I) ACCESS TO HIGHER EDUCATION BACCALAUREATE OR
16 MASTER'S DEGREE PROGRAMS;

17 (II) ACCESS TO SHORT-TERM CERTIFICATION TRAINING IN
18 HIGH DEMAND TRADES;

19 (III) ARTS, CULTURE, AND HISTORIC PRESERVATION;

20 (IV) ASSISTING WITH TECHNICAL ASSISTANCE AND CAPACITY
21 BUILDING THROUGH ENTREPRENEURIAL TRAINING AND WORKFORCE
22 DEVELOPMENT;

23 (V) ECONOMIC DEVELOPMENT AND TOURISM PROMOTION;

24 (VI) MANAGEMENT AND MAINTENANCE OF FACILITIES; OR

25 (VII) SERVICES FOR AT-RISK POPULATIONS.

26 (3) THE PROJECT OR SERVICES MUST BENEFIT INDIVIDUALS WITH
27 INCOME THAT DOES NOT EXCEED THE GREATER OF:

1 **(I) THE STATEWIDE MEDIAN INCOME FOR A HOUSEHOLD OF**
2 **FOUR AS REPORTED BY THE UNITED STATES DEPARTMENT OF HOUSING AND**
3 **URBAN DEVELOPMENT; OR**

4 **(II) THE APPLICABLE METROPOLITAN STATISTICAL AREA**
5 **INCOME FOR A HOUSEHOLD OF FOUR AS REPORTED AND ISSUED BY THE UNITED**
6 **STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

7 **(D) (1) THE COMMISSION SHALL PROVIDE TAX CREDIT CERTIFICATES TO**
8 **EACH ELIGIBLE HIGHER EDUCATION INSTITUTION THAT RECEIVES A TAX CREDIT**
9 **ALLOCATION.**

10 **(2) AN ELIGIBLE HIGHER EDUCATION INSTITUTION SHALL PROVIDE**
11 **EACH ELIGIBLE DONOR THAT MAKES A DONATION WITH TAX CREDIT CERTIFICATES**
12 **THAT:**

13 **(I) CERTIFY THE AMOUNT OF THE DONATION;**

14 **(II) DO NOT EXCEED 50% OF THE AMOUNT OF THE DONATION;**

15 **AND**

16 **(III) STATE THE YEAR THE DONATION IS MADE.**

17 **(3) BEFORE AN ELIGIBLE DONOR MAY MAKE A DONATION OF REAL**
18 **PROPERTY, THE COMMISSION SHALL CERTIFY THE VALUE OF THE REAL PROPERTY**
19 **TO BE DONATED.**

20 **(E) THE ELIGIBLE HIGHER EDUCATION INSTITUTION SHALL NOTIFY THE**
21 **COMPTROLLER OF THE AMOUNT OF EACH TAX CREDIT CERTIFICATE THAT EACH**
22 **ELIGIBLE DONOR RECEIVES.**

23 **17-404.**

24 **(A) THE CREDIT ALLOWED UNDER THIS SUBTITLE:**

25 **(1) EQUALS THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE;**

26 **AND**

27 **(2) MAY BE APPLIED AGAINST:**

28 **(I) THE STATE INCOME TAX IMPOSED UNDER TITLE 10 OF THE**
29 **TAX – GENERAL ARTICLE;**

1 **(II) THE PUBLIC SERVICE COMPANY FRANCHISE TAX IMPOSED**
2 **UNDER TITLE 8, SUBTITLE 4 OF THE TAX – GENERAL ARTICLE; OR**

3 **(III) THE INSURANCE PREMIUM TAX IMPOSED UNDER TITLE 6 OF**
4 **THE INSURANCE ARTICLE.**

5 **(B) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR**
6 **MAY NOT EXCEED THE TOTAL AMOUNT OF TAX OTHERWISE PAYABLE BY THE**
7 **ELIGIBLE DONOR FOR THE TAXABLE YEAR.**

8 **(C) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR**
9 **EXCEEDS THE TAX FOR THAT TAXABLE YEAR, AN ELIGIBLE DONOR MAY APPLY THE**
10 **EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EXPIRATION OF**
11 **THE SECOND TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE DONATION**
12 **WAS MADE.**

13 **17-405.**

14 **(A) ON OR BEFORE JANUARY 31 AND JULY 31 EACH YEAR, AN ELIGIBLE**
15 **HIGHER EDUCATION INSTITUTION SHALL REPORT TO THE COMMISSION ON:**

16 **(1) THE STATUS OR ACTIVITY OF THE PROJECTS OR SERVICES;**

17 **(2) THE USE OF THE DONATIONS AND TAX CREDITS; AND**

18 **(3) THE MARKETING OF THE TAX CREDITS.**

19 **(B) THE COMMISSION SHALL SUBMIT TO THE GOVERNOR AND, IN**
20 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE**
21 **GENERAL ASSEMBLY AN ANNUAL REPORT SUMMARIZING THE USE OF THE**
22 **DONATIONS AND THE TAX CREDITS AUTHORIZED UNDER THIS SUBTITLE.**

23 **17-406.**

24 **THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT AND THE**
25 **COMPTROLLER, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

26 **Article – Tax – General**

27 **8-418.**

28 **A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC**
29 **SERVICE COMPANY FRANCHISE TAX FOR DONATIONS TO AN ELIGIBLE HIGHER**

1 EDUCATION INSTITUTION AS PROVIDED UNDER TITLE 17, SUBTITLE 4 OF THE
2 EDUCATION ARTICLE.

3 10-737.

4 AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE
5 STATE INCOME TAX FOR DONATIONS TO AN ELIGIBLE HIGHER EDUCATION
6 INSTITUTION AS PROVIDED UNDER TITLE 17, SUBTITLE 4 OF THE EDUCATION
7 ARTICLE.

8 Article - Insurance

9 6-123.

10 A PERSON THAT IS SUBJECT TO TAXATION UNDER THIS SUBTITLE MAY CLAIM
11 A TAX CREDIT AGAINST THE TAX IMPOSED FOR DONATIONS TO AN ELIGIBLE HIGHER
12 EDUCATION INSTITUTION AS PROVIDED UNDER TITLE 17, SUBTITLE 4 OF THE
13 EDUCATION ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
15 1, 2015, and shall be applicable to all taxable years beginning after December 31, 2015.