

The Senate Committee on Finance offered the following substitute to HB 217:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, computation, and exemptions from state income taxes, so as to
3 increase the amount of the aggregate cap on contributions to certain scholarship
4 organizations in order to receive income tax credits; to provide for procedures, conditions,
5 and limitations; to amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated,
6 relating to student scholarship organizations, so as to provide for new expenditure limits; to
7 provide for additional reporting requirements; to provide for related matters; to provide for
8 an effective date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
12 imposition, rate, computation, and exemptions from state income taxes, is amended by
13 revising subsection (f) of Code Section 48-7-29.16, relating to the qualified education tax
14 credit, as follows:

15 "(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code
16 section exceed ~~\$58~~ \$65 million ~~per~~ for any tax year. Any portion of the tax credits
17 allowed under this Code section that are not approved by the commissioner, or, if
18 approved, not funded by the taxpayer, shall be applied to the next calendar year in the
19 manner specified by the commissioner.

20 (2) ~~The commissioner shall allow the tax credits on a first come, first served basis~~ shall
21 be available for allocation for the first ten business days of each calendar year. During
22 such period, the commissioner shall accept requests for preapproval for tax credits from
23 interested taxpayers. Once all requests have been received, the commissioner shall
24 allocate the available credits pro rata for that calendar year if the amount of tax credits
25 requested exceeds the cap. If the amount of tax credits requested does not exceed the cap,
26 the commissioner shall continue to accept requests until November 1 of such calendar

27 year or until the aggregate amount of the cap for the calendar year is exhausted,
 28 whichever shall first occur.

29 (3) For the purposes of paragraph (1) of this subsection, a student scholarship
 30 organization shall notify a potential donor of the requirements of this Code section.
 31 Before making a contribution to a student scholarship organization, the taxpayer shall
 32 electronically notify the department, in a manner specified by the department, of the total
 33 amount of contributions that the taxpayer intends to make to the student scholarship
 34 organization. The commissioner shall preapprove, or deny, or prorate the requested
 35 amount within 30 days after receiving the request from the taxpayer and shall provide
 36 notice to the taxpayer and the student scholarship organization of such preapproval, or
 37 denial, or proration which shall not require any signed release or notarized approval by
 38 the taxpayer. In order to receive a tax credit under this Code section, the taxpayer shall
 39 make the contribution to the student scholarship organization within 60 days after
 40 receiving notice from the department that the requested amount was preapproved. If the
 41 taxpayer does not comply with this paragraph, the commissioner shall not include this
 42 preapproved contribution amount when calculating the limit prescribed in paragraph (1)
 43 of this subsection. The department shall establish a web based donation approval process
 44 to implement this subsection.

45 (4) Preapproval of contributions by the commissioner shall be based solely on the
 46 availability of tax credits subject to the aggregate total limit established under
 47 paragraph (1) of this subsection. The department shall maintain an ongoing, current list
 48 on its website of the amount of tax credits available under this Code section.

49 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
 50 action against donors to student scholarship organizations if the commissioner
 51 preapproved a donation for a tax credit prior to the date the student scholarship
 52 organization is removed from the Department of Education list pursuant to Code Section
 53 20-2A-7, and all such donations shall remain as preapproved tax credits subject only to
 54 the donor's compliance with paragraph (3) of this subsection.

55 (6) In addition to the reporting requirements in Code Section 20-2A-3, each student
 56 scholarship organization shall file an annual report with the department showing any fees
 57 or assessments retained by the student scholarship organization during the calendar year."

58 **SECTION 2.**

59 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
 60 scholarship organizations, is amended by restating the introductory language and revising
 61 paragraphs (1) and (3) of Code Section 20-2A-2, relating to requirements for student
 62 scholarship organizations, as follows:

63 "Each student scholarship organization:

64 (1) ~~With respect to the first \$1.5 million of its annual revenue received from donations~~
65 ~~for scholarships or tuition grants, must obligate at least 90 percent of such revenue for~~
66 ~~scholarships or tuition grants; with respect to its annual revenue received from donations~~
67 ~~for scholarships or tuition grants in excess of \$1.5 million and up to and including \$10~~
68 ~~million, must obligate at least 93 percent of such revenue for scholarships and tuition~~
69 ~~grants; with respect to its annual revenue received from donations for scholarships or~~
70 ~~tuition grants in excess of \$10 million and up to and including \$20 million, must obligate~~
71 ~~at least 94 percent of such revenue for scholarships and tuition grants; and, with respect~~
72 ~~to its annual revenue received from donations for scholarships or tuition grants in excess~~
73 ~~of \$20 million, must obligate at least 95 percent of such revenue for scholarships and~~
74 ~~tuition grants. Shall obligate at least 97 percent of its annual revenue received from~~
75 ~~donations for scholarships or tuition grants to scholarships or tuition grants.~~ On or before
76 the end of the calendar year following the calendar year in which a student scholarship
77 organization receives revenues from donations and obligates them for the awarding of
78 scholarships or tuition grants, the student scholarship organization shall designate the
79 obligated revenues for specific student recipients. Once the student scholarship
80 organization designates obligated revenues for specific student recipients, in the case of
81 multiyear scholarships or tuition grants, the student scholarship organization may
82 distribute the entire obligated and designated revenues to a qualified school or program
83 to be held in accordance with Department of Revenue rules for distribution to the
84 specified recipients during the years in which the recipients are projected in writing by
85 the private school to be enrolled at the qualified school or program. In making a
86 multiyear distribution to a qualified school or program, the student scholarship
87 organization shall require that if the designated student becomes ineligible or for any
88 other reason the qualified school or program elects not to continue disbursement of the
89 multiyear scholarship or tuition grant to the designated student for all the projected years,
90 then the qualified school or program shall immediately return the remaining funds to the
91 student scholarship organization. Once the student scholarship organization designates
92 obligated revenues for specific student recipients, in the case of multiyear scholarships
93 or tuition grants for which the student scholarship organization distributes the obligated
94 and designated revenues to a qualified school or program annually rather than the entire
95 amount, if the designated student becomes ineligible or for any other reason the student
96 scholarship organization elects not to continue disbursement for all years, then the student
97 scholarship organization shall designate any remaining previously obligated revenues for
98 a new specific student recipient on or before the end of the following calendar year. The
99 maximum scholarship amount given by the student scholarship organization in any given

100 year shall not exceed the average state and local expenditures per student in fall
 101 enrollment in public elementary and secondary education for this state. The Department
 102 of Education shall determine and publish such amount annually, no later than January 1;"
 103 "(3) Must have an independent board of directors with at least three members who shall
 104 not serve on more than one such board simultaneously;"

105 **SECTION 3.**

106 Said chapter is further amended by revising Code Section 20-2A-3, relating to taxation
 107 reporting requirements for student scholarship organizations, as follows:

108 "20-2A-3.

109 (a) Each student scholarship organization must report to the Department of Revenue, on
 110 a date determined by the Department of Revenue and on a form provided by the
 111 Department of Revenue, ~~by January 12 of each tax year~~ the following:

112 (1) The total number and dollar value of individual contributions and tax credits
 113 approved. Individual contributions shall include contributions made by those filing
 114 income tax returns as a single individual or head of household and those filing joint
 115 returns;

116 (2) The total number and dollar value of corporate contributions and tax credits
 117 approved;

118 (3) The total number and dollar value of scholarships awarded to eligible students;

119 (4) The total number of families of scholarship recipients who fall within each quartile
 120 of Georgia adjusted gross income as defined and reported annually by the Department of
 121 Revenue and the average number of dependents of recipients for each quartile; ~~and~~

122 (5) A list of donors, including the dollar value and date of receipt of each donation and
 123 the dollar value of each approved tax credit; and

124 (6) The average scholarship dollar amount by quartile.

125 Such report shall also include a copy of the audit conducted pursuant to paragraph (5) of
 126 Code Section 20-2A-2. The Department of Revenue shall post on its website the
 127 information received from each student scholarship organization pursuant to paragraphs
 128 (1) through (4) of this subsection.

129 (b) Except for the information reported pursuant to paragraphs (1) through (4) of
 130 subsection (a) of this Code section, all information or reports provided by student
 131 scholarship organizations to the Department of Revenue shall be confidential taxpayer
 132 information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates
 133 to the donor or the student scholarship organization."

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SECTION 4.

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This Act shall become effective upon its approval by the Governor or upon its becoming law

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without such approval and shall be applicable to tax years beginning on or after January 1,

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SECTION 5.

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All laws and parts of laws in conflict with this Act are repealed.