

## COMMITTEES OF CONFERENCE 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 an increase in the limit  
5 of tax credits and for reporting the increase in the limit; to provide for procedures, conditions,  
6 and limitations; to amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated,  
7 relating to student scholarship organizations, so as to provide for new expenditure limits; to  
8 provide for additional reporting requirements; to amend Code Section 48-8-3 of the Official  
9 Code of Georgia Annotated, relating to exemptions from sales and use taxes, so as to provide  
10 a sales tax exemption for the sale or use of noncommercial written materials or mailings by  
11 an organization which is exempt from taxation under Section 501(c)(3) of the Internal  
12 Revenue Code; to provide for related matters; to provide for an effective date and  
13 applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

15 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
16 imposition, rate, computation, and exemptions from state income taxes, is amended by  
17 revising subsection (f) of Code Section 48-7-29.16, relating to the qualified education tax  
18 credit, as follows:  
19

20 "(f)(1) ~~In no event shall the~~ The aggregate amount of tax credits allowed under this Code  
21 section shall not exceed:

22 (A) Fifty-eight \$58 million per dollars for the tax year ending on December 31, 2018;

23 and

24 (B) One hundred million dollars for the tax year ending on December 31, 2019, and for  
25 all subsequent tax years.

26 (2) The commissioner shall allow the tax credits on a first come, first served basis.

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

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

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

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

## 56 SECTION 2.

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

61 "Each student scholarship organization:

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

98 elementary and secondary education for this state. The Department of Education shall  
 99 determine and publish such amount annually, no later than January 1;"

100 **SECTION 3.**

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

103 "20-2A-3.

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

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

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

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

114 (4) The total number of ~~families~~ of scholarship recipients ~~who fall within each quartile~~  
 115 of Georgia whose family's adjusted gross income as ~~defined and reported annually by the~~  
 116 Department of Revenue ~~and the average number of dependents of recipients for each~~  
 117 quartile, and falls:

118 (A) Under 125 percent of the federal poverty level;

119 (B) Between 125 and 250 percent of the federal poverty level;

120 (C) Between 250 and 400 percent of the federal poverty level; and

121 (D) Above 400 percent of the federal poverty level;

122 (5) The average scholarship dollar amount by adjusted gross income category as  
 123 provided in paragraph (4) of this subsection; and

124 (6) A list of donors, including the dollar value of each donation and the dollar value of  
 125 each approved tax credit.

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

130 (b) Except for the information reported pursuant to paragraphs (1) through ~~(4)~~(5) of  
 131 subsection (a) of this Code section, all information or reports provided by student  
 132 scholarship organizations to the Department of Revenue shall be confidential taxpayer

133 information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates  
134 to the donor or the student scholarship organization."

135 **SECTION 4.**

136 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
137 state sales and use taxes, is amended by deleting "or" at the end of paragraph (99), by  
138 replacing the period with "; or" at the end of paragraph (100), and by adding a new paragraph  
139 to read as follows:

140 "(101)(A) The sale or use of noncommercial written materials or mailings by an  
141 organization which is exempt from taxation under Section 501(c)(3) of the Internal  
142 Revenue Code, if the organization is located in this state and provides such materials  
143 to charity supporters for educational, charitable, religious, or fundraising purposes, to  
144 the extent provided in subparagraph (B) of this paragraph.

145 (B) This exemption shall apply from July 1, 2018, until July 1, 2021. A qualifying  
146 organization must pay sales and use tax on all purchases and uses of tangible personal  
147 property and may obtain the benefit of this exemption from sales and use taxes by filing  
148 a claim for refund of tax paid on qualifying items. All refunds made pursuant to this  
149 paragraph shall not include interest."

150 **SECTION 5.**

151 This Act shall become effective upon its approval by the Governor or upon its becoming law  
152 without such approval. Sections 1, 2, and 3 of this Act shall be applicable to tax years  
153 beginning on or after January 1, 2018.

154 **SECTION 6.**

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