

House Bill 394

By: Representatives Cole of the 125th, Pruett of the 144th, and Ramsey of the 72nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 20 and 48 of the Official Code of Georgia Annotated, relating, respectively,
2 to education and to revenue and taxation, so as to revise a program relating to student
3 scholarship organizations; to revise definitions; to provide for eligibility of student
4 scholarship organizations; to revise provisions relating to the duties and powers of student
5 scholarship organizations; to provide a maximum scholarship amount; to provide for testing;
6 to revise certain provisions relating to an income tax credit with respect to qualified
7 education expenses; to provide for related matters; to provide an effective date; to provide
8 for applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
12 scholarship organizations, is amended as follows:

13 style="text-align:center">"CHAPTER 2A

14 20-2A-1.

15 As used in this chapter, the term:

16 (1) 'Eligible student' means a student who is a Georgia resident enrolled in a Georgia
17 secondary or primary public school for at least one year or eligible to enroll in a qualified
18 kindergarten program ~~or pre-kindergarten program~~ and who is eligible for free or reduced
19 price lunch.

20 (2) 'Qualified school or program' means a nonpublic primary school or secondary school
21 that:

22 (A) Is accredited or in the process of becoming accredited by one or more entities
23 listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519; and

24 (B) Is located in this state, adheres to the provisions of the federal Civil Rights Act of
 25 1964, and satisfies the requirements prescribed by law for private schools in this state.

26 (3) 'Student scholarship organization' means a charitable organization in this state that:

27 (A) Is exempt from federal income taxation under Section 501(c)(3) of the Internal
 28 Revenue Code and allocates ~~90~~ 97 percent of its annual revenue for scholarships or
 29 tuition grants to allow students to attend any qualified school or program of their
 30 parents' choice; and

31 (B) Provides educational scholarships or tuition grants to eligible students to attend a
 32 qualified school or program without limiting availability to only students of one ~~school~~
 33 or more such qualified schools or programs.

34 20-2A-2.

35 (a) To be eligible as a student scholarship organization under this chapter, the organization
 36 shall:

37 (1) Conduct background checks on its owners and operators; and

38 (2) Require documentation confirming the eligibility of each student receiving a
 39 scholarship from the organization based on the academic year preceding the award of
 40 such scholarship to the eligible student.

41 A scholarship organization whose owner or operator is also an owner or operator of a
 42 qualified school or program shall not be eligible as a student scholarship organization under
 43 this chapter.

44 (b) Each student scholarship organization:

45 (1) ~~Must~~ Shall obligate ~~90~~ 97 percent of its annual revenue for scholarships or tuition
 46 grants for eligible students to attend qualified schools or programs; however, up to 25
 47 percent of this amount may be carried forward for the next fiscal year;

48 (2) ~~Must~~ Shall maintain separate accounts for scholarship funds and operating funds;

49 (3) May transfer funds to another student scholarship organization;

50 (4) ~~Must~~ Shall conduct an audit of its accounts by an independent certified public
 51 accountant within 120 days after the completion of the student scholarship organization's
 52 fiscal year and provide such audit to the Department of Revenue in accordance with Code
 53 Section 20-2A-3; ~~and~~

54 (5) ~~Must~~ Shall annually submit notice to the Department of Education in accordance with
 55 department guidelines of its participation as a student scholarship organization under this
 56 chapter; and

57 (6) Shall annually report to the Department of Education the number of students
 58 receiving scholarships from the organization and the qualified schools or programs in
 59 which such students are enrolled.

60 20-2A-3.

61 (a) Each student scholarship organization ~~must~~ shall report to the Department of Revenue,
62 on a form provided by the Department of Revenue, by January 12 of each tax year the
63 following:

64 (1) The total number and dollar value of contributions and tax credits approved; and

65 (2) A list of donors, including the dollar value of each donation and the dollar value of
66 each approved tax credit.

67 Such report shall also include a copy of the audit conducted pursuant to paragraph (4) of
68 subsection (b) of Code Section 20-2A-2.

69 (b) The Department of Revenue shall not require any other information from student
70 scholarship organizations, except as expressly authorized in this chapter.

71 20-2A-4.

72 The Department of Revenue shall provide a list of all student scholarship organizations
73 receiving contributions from businesses and individuals granted a tax credit under Code
74 Section 48-7-29.13 to the General Assembly by January 30 of each year.

75 20-2A-5.

76 (a) The amount of a scholarship provided to any eligible student for a single academic year
77 by a student scholarship organization pursuant to this chapter shall not exceed the average
78 Quality Basic Education Formula grant amount per full-time equivalent student, as
79 determined by the Governor's Office of Planning and Budget. Such average amount shall
80 include all grades and programs.

81 (b) The parent or guardian to whom a scholarship award is granted must shall restrictively
82 endorse the scholarship award to the ~~private school~~ qualified school or program for deposit
83 into the account of the ~~private school~~ qualified school or program. The parent or guardian
84 may not designate any entity or individual associated with the participating ~~private school~~
85 qualified school or program as the parent's attorney in fact to endorse a scholarship warrant.
86 A ~~participant~~ parent or guardian who fails to comply with this ~~Code section~~ subsection
87 forfeits the scholarship.

88 20-2A-6.

89 The Department of Education shall maintain on its website a current list of all student
90 scholarship organizations which have provided notice pursuant to paragraph (5) of
91 subsection (b) of Code Section 20-2A-2.

92 20-2A-7.

93 (a) Each qualified school or program in which an eligible student who receives a
 94 scholarship or tuition grant from a student scholarship organization pursuant to this chapter
 95 is enrolled shall select a nationally norm-referenced test approved by the State Board of
 96 Education and shall annually administer such test to each such eligible student enrolled in
 97 its qualified school or program.

98 (b) Each qualified school or program subject to subsection (a) of this Code section shall
 99 annually report the results of the norm-referenced test to the Department of Education in
 100 accordance with its rules and regulations."

101 **SECTION 2.**

102 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 103 amended by revising subsections (b) and (h) of Code Section 48-7-29.13, relating to tax
 104 credits for donations to student scholarship organizations, as follows:

105 "(b) An individual taxpayer shall be allowed a credit against the tax imposed by this
 106 chapter for qualified education expenses as follows:

107 (1) In the case of a single individual or a head of household, the actual amount expended
 108 or \$1,000.00 per tax year, whichever is less; or

109 (2) In the case of a married couple filing a joint return, the actual amount expended or
 110 ~~\$2,500.00~~ \$2,000.00 per tax year, whichever is less."

111 "(h)(1) No credit shall be allowed under this Code section with respect to any amount
 112 deducted from taxable net income by the taxpayer as a charitable contribution to a bona
 113 fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue
 114 Code.

115 (2) The amount of any scholarship received by an eligible student ~~or eligible~~
 116 ~~pre-kindergarten student~~ shall be excluded from taxable net income for Georgia income
 117 tax purposes."

118 **SECTION 3.**

119 This Act shall become effective upon its approval by the Governor or upon its becoming law
 120 without such approval and shall be applicable to all taxable years beginning on or after
 121 January 1, 2009.

122 **SECTION 4.**

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