

House Bill 1073

By: Representatives Neal of the 1st, Davis of the 109th, and Cheokas of the 134th

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 the imposition, rate, and computation of income taxes and exemptions, so as to
3 provide for a tax credit for certain contributions to public schools; to provide for related
4 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
8 imposition, rate, and computation of income taxes and exemptions, is amended by adding a
9 new Code section to read as follows:

10 "48-7-29.18.

11 (a) As used in this Code section, the term:

12 (1) 'Qualified education expense' means the expenditure of funds by the taxpayer during
13 the tax year for which a credit under this Code section is claimed and allowed to a
14 qualified school or program.

15 (2) 'Qualified school or program' means a public pre-kindergarten program, primary
16 school, or secondary school.

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

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

21 (2) In the case of a married couple filing a joint return, the actual amount expended or
22 \$2,500.00 per tax year, whichever is less.

23 (c) A corporation or other entity shall be allowed a credit against the tax imposed by this
24 chapter for qualified education expenses in an amount not to exceed the actual amount
25 expended or 75 percent of the corporation's income tax liability, whichever is less.

26 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
27 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
28 taxpayer against the succeeding five years' tax liabilities. No such credit shall be allowed
29 the taxpayer against prior years' tax liabilities.

30 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
31 section exceed \$50 million per tax year; provided, however, that this maximum amount
32 shall be adjusted annually until January 1, 2018, which adjustment may be based on the
33 most recent annual percentage change in the Consumer Price Index for All Urban
34 Consumers, U.S. City Average All Items Index, published by the Bureau of Labor
35 Statistics of the United States Department of Labor, as determined by the department.

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

37 (3) For the purposes of paragraph (1) of this subsection, a qualified school or program
38 shall notify a potential donor of the requirements of this Code section. Before making
39 a contribution to a qualified school or program, the taxpayer shall notify the department
40 of the total amount of contributions that the taxpayer intends to make to the qualified
41 school or program. The commissioner shall preapprove or deny the requested amount
42 within 30 days after receiving the request from the taxpayer and shall provide written
43 notice to the taxpayer and the qualified school or program of such preapproval or denial
44 which shall not require any signed release or notarized approval by the taxpayer. In order
45 to receive a tax credit under this Code section, the taxpayer shall make the contribution
46 to the qualified school or program within 60 days after receiving notice from the
47 department that the requested amount was preapproved. If the taxpayer does not comply
48 with this paragraph, the commissioner shall not include this preapproved contribution
49 amount when calculating the limit prescribed in paragraph (1) of this subsection. The
50 department shall establish a web based donation approval process to implement this
51 subsection.

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

56 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
57 action against donors to a qualified school or program if the commissioner preapproved
58 a donation for a tax credit subject only to the donor's compliance with paragraph (3) of
59 this subsection.

60 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of
61 confirmation of donation issued by the qualified school or program to which the
62 contribution was made shall be attached to the taxpayer's tax return. However, in the event

63 the taxpayer files an electronic return, such confirmation shall only be required to be
64 electronically attached to the return if the Internal Revenue Service allows such
65 attachments when the data is transmitted to the department. In the event the taxpayer files
66 an electronic return and such confirmation is not attached because the Internal Revenue
67 Service does not, at the time of such electronic filing, allow electronic attachments to the
68 Georgia return, such confirmation shall be maintained by the taxpayer and made available
69 upon request by the commissioner. The letter of confirmation of donation shall contain the
70 taxpayer's name, address, tax identification number, the amount of the contribution, the
71 date of the contribution, and the amount of the credit.

72 (g) No credit shall be allowed under this Code section with respect to any amount
73 deducted from taxable net income by the taxpayer as a charitable contribution to a bona
74 fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue
75 Code.

76 (h) The commissioner shall be authorized to promulgate any rules and regulations
77 necessary to implement and administer the tax provisions of this Code section."

78 **SECTION 2.**

79 This Act shall become effective upon its approval by the Governor or upon its becoming law
80 without such approval.

81 **SECTION 3.**

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