

House Bill 231

By: Representative Neal of the 2<sup>nd</sup>

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 change the allocation of the cap for qualified education tax credits; to provide for a tax credit  
4 for certain contributions to public schools; to provide for related matters; to provide for an  
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
9 imposition, rate, and computation of income taxes and exemptions, is amended by revising  
10 paragraph (1) of subsection (f) of Code Section 48-7-29.16, relating to qualified education  
11 tax credits, as follows:

12 "(f)(1)(A) In no event shall the aggregate amount of tax credits allowed under this  
13 Code section and Code Section 48-7-29.18 exceed \$50 million per tax year; provided,  
14 however, that until January 1, 2018, this maximum amount shall be adjusted annually  
15 until January 1, 2018, which adjustment may be based on the most recent annual  
16 percentage change in the Consumer Price Index for All Urban Consumers, U.S. City  
17 Average All Items Index, published by the Bureau of Labor Statistics of the United  
18 States Department of Labor, as determined by the department.

19 (B) The aggregate amount of tax credits allowed under subparagraph (A) of this Code  
20 section shall be evenly divided between the tax credits provided under this Code section  
21 and the tax credits provided for in Code Section 48-7-29.18."

22 **SECTION 2.**

23 Said article is further amended by adding a new Code section to read as follows:

24 "48-7-29.18.

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

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

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

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

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

35 (2) In the case of a married couple filing a joint return, the actual amount expended or  
 36 \$2,500.00 per tax year, whichever is less.

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

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

44 (e)(1)(A) In no event shall the aggregate amount of tax credits allowed under this Code  
 45 section and Code Section 48-7-29.16 exceed \$50 million per tax year; provided,  
 46 however, that until January 1, 2018, this maximum amount shall be adjusted annually  
 47 based on the most recent annual percentage change in the Consumer Price Index for All  
 48 Urban Consumers, U.S. City Average All Items Index, published by the Bureau of  
 49 Labor Statistics of the United States Department of Labor, as determined by the  
 50 department.

51 (B) The aggregate amount of tax credits allowed under subparagraph (A) of this Code  
 52 section shall be evenly divided between the tax credits provided under this Code section  
 53 and the tax credits provided for in Code Section 48-7-29.16.

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

55 (3) For the purposes of paragraph (1) of this subsection, a qualified school or program  
 56 shall notify a potential donor of the requirements of this Code section. Before making  
 57 a contribution to a qualified school or program, the taxpayer shall notify the department  
 58 of the total amount of contributions that the taxpayer intends to make to the qualified  
 59 school or program. The commissioner shall preapprove or deny the requested amount  
 60 within 30 days after receiving the request from the taxpayer and shall provide written  
 61 notice to the taxpayer and the qualified school or program of such preapproval or denial  
 62 which shall not require any signed release or notarized approval by the taxpayer. In order

63 to receive a tax credit under this Code section, the taxpayer shall make the contribution  
64 to the qualified school or program within 60 days after receiving notice from the  
65 department that the requested amount was preapproved. If the taxpayer does not comply  
66 with this paragraph, the commissioner shall not include this preapproved contribution  
67 amount when calculating the limit prescribed in paragraph (1) of this subsection. The  
68 department shall establish a web based donation approval process to implement this  
69 subsection.

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

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

78 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of  
79 confirmation of donation issued by the qualified school or program to which the  
80 contribution was made shall be attached to the taxpayer's tax return. However, in the event  
81 the taxpayer files an electronic return, such confirmation shall only be required to be  
82 electronically attached to the return if the Internal Revenue Service allows such  
83 attachments when the data is transmitted to the department. In the event the taxpayer files  
84 an electronic return and such confirmation is not attached because the Internal Revenue  
85 Service does not, at the time of such electronic filing, allow electronic attachments to the  
86 Georgia return, such confirmation shall be maintained by the taxpayer and made available  
87 upon request by the commissioner. The letter of confirmation of donation shall contain the  
88 taxpayer's name, address, and tax identification number, the amount of the contribution,  
89 the date of the contribution, and the amount of the credit.

90 (g) No credit shall be allowed under this Code section for any amount deducted from  
91 taxable net income by the taxpayer as a charitable contribution to a bona fide charitable  
92 organization qualified under Section 501(c)(3) of the Internal Revenue Code.

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

95 **SECTION 3.**

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

98

**SECTION 4.**

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