

House Bill 1145

By: Representative Brockway of the 102nd

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 taxation, so as
3 to provide an exemption for corporate donors to student scholarship organizations; to provide
4 for a short title; to amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated,
5 relating to student scholarship organizations, so as to create a new income tax exemption for
6 student scholarship funding; to provide for corporate donations to student scholarship
7 organizations; to provide for procedures, conditions, and limitations; to provide for related
8 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Business and Education Acting Together
13 (BEAT) Act."

14 **SECTION 2.**

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 taxation, is amended by
17 adding a new Code section to read as follows:

18 "48-7-29.161.

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

20 (1) 'BEAT' means Business and Education Working Together.

21 (2) 'BEAT eligible student' shall have the same meaning as in paragraph (1) of Code
22 Section 20-2A-15.

23 (3) 'BEAT qualified school or program' shall have the same meaning as in paragraph (2)
24 of Code Section 20-2A-15.

- 25 (4) 'BEAT student scholarship donor' shall have the same meaning as in paragraph (3)
26 of Code Section 20-2A-15.
- 27 (5) 'Student scholarship organization' shall have the same meaning as in paragraph (3)
28 of Code Section 20-2A-1.
- 29 (b) A BEAT student scholarship donor shall be allowed a credit against the tax imposed
30 by this chapter for donations to a student scholarship organization in an amount not to
31 exceed the actual amount expended or \$2.5 million, whichever is less.
- 32 (c) The tax credit shall not be allowed if the BEAT student scholarship donor designates
33 the donation to be used for the direct benefit of any particular individual.
- 34 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
35 year exceed the BEAT student scholarship donor's income tax liability. Any unused tax
36 credit shall be allowed the BEAT student scholarship donor against the succeeding five
37 years' tax liability. No such credit shall be allowed against prior years' tax liability.
- 38 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
39 section exceed \$25 million per tax year. No single BEAT student scholarship donor shall
40 issue more than \$2.5 million in tax credits per tax year.
- 41 (2) The commissioner shall allow the tax credits on a first come, first served basis.
- 42 (3) Before making a contribution to a student scholarship organization, the BEAT
43 student scholarship donor shall electronically notify the department, in a manner specified
44 by the department, of the total amount of contributions that the BEAT student scholarship
45 donor intends to make to the student scholarship organization. The commissioner shall
46 preapprove or deny the requested amount within 30 days after receiving the request from
47 the BEAT student scholarship donor and shall provide notice to the donor and the student
48 scholarship organization of such preapproval or denial which shall not require any signed
49 release or notarized approval by the BEAT student scholarship donor. In order to receive
50 a tax credit under this Code section, the BEAT student scholarship donor shall make the
51 contribution to the student scholarship organization within 60 days after receiving notice
52 from the department that the requested amount was preapproved. If the BEAT student
53 scholarship donor does not comply with this paragraph, the commissioner shall not
54 include this preapproved contribution amount when calculating the limit prescribed in
55 paragraph (1) of this subsection. The department shall establish a web based donation
56 approval process to implement this subsection.
- 57 (4) Preapproval of contributions by the commissioner shall be based solely on the
58 availability of tax credits subject to the aggregate total limit established under paragraph
59 (1) of this subsection. The department shall maintain an ongoing, current list on its
60 website of the amount of tax credits available under this Code section.

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

67 (f) In order for the BEAT student scholarship donor to claim the tax credit under this Code
 68 section, a letter of confirmation of donation issued by the student scholarship organization
 69 to which the contribution was made shall be attached to the BEAT student scholarship
 70 donor's tax return. However, in the event the BEAT student scholarship donor files an
 71 electronic return, such confirmation shall only be required to be electronically attached to
 72 the return if the Internal Revenue Service allows such attachments when the data is
 73 transmitted to the department. In the event the donor files an electronic return and such
 74 confirmation is not attached because the Internal Revenue Service does not, at the time of
 75 such electronic filing, allow electronic attachments to the Georgia return, such confirmation
 76 shall be maintained by the BEAT student scholarship donor and made available upon
 77 request by the commissioner. The letter of confirmation of donation shall contain the
 78 donor's name, address, tax identification number, the amount of the contribution, the date
 79 of the contribution, and the amount of the tax credit.

80 (g) No tax credit shall be allowed under this Code section with respect to any amount
 81 deducted from taxable net income by the BEAT student scholarship donor as a charitable
 82 contribution to a bona fide charitable organization qualified under Section 501(c)(3) of the
 83 Internal Revenue Code.

84 (h) All information or reports provided by student scholarship organizations or BEAT
 85 student scholarship donors to the department shall be confidential taxpayer information,
 86 governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates to the donor
 87 or the student scholarship organization.

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

90 **SECTION 3.**

91 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
 92 scholarship organizations, is amended by designating the existing Code sections as Article
 93 1 and adding a new article to read as follows:

"ARTICLE 2

94

95 20-2A-15.96 As used in this article, the term:97 (1) 'BEAT' means Business and Education Working Together.98 (2) 'BEAT eligible student' means any student qualifying for a free or reduced lunch in
99 Georgia schools.100 (3) 'BEAT qualified school or program' means a school or program that:101 (A) Annually administers nationally norm-referenced tests that measure learning gains
102 and provide for value added assessment to all participating students in grades that
103 require testing under this state's accountability testing laws for public schools;104 (B) Provides the parents of each student with a copy of the results of the tests
105 administered pursuant to subparagraph (A) of this paragraph on an annual basis
106 beginning with the first year of testing;107 (C) Provides the test results to the Office of Student Achievement on an annual basis
108 beginning with the first year of testing;109 (D) Reports student information that would allow the state to aggregate data by grade
110 level, gender, family income level, and race;111 (E) Provides graduation rates of participating students to the Office of Student
112 Achievement in a manner consistent with nationally recognized standards;113 (F) Is accredited or in the process of becoming accredited by one or more entities listed
114 in subparagraph (A) of paragraph (6) of Code Section 20-3-519; and115 (G) Is located in this state, adheres to the provisions of the federal Civil Rights Act of
116 1964, and satisfies the requirements prescribed by law for private schools in this state.117 (4) 'BEAT student scholarship donor' means a C corporation lawfully organized and
118 registered under the laws of this state that contributes to a student scholarship
119 organization.120 (5) 'Student scholarship organization' shall have the same meaning as in paragraph (3)
121 of Code Section 20-2A-1.122 20-2A-16.123 (a) Each BEAT student scholarship donor shall transfer any revenue, including any
124 donations or gifts, designated for scholarships or tuition grants to a student scholarship
125 organization within 24 months of receipt of such revenue.126 (b) In addition to the requirements in Code Section 48-7-29.161, each BEAT student
127 scholarship donor shall annually submit notice to the Department of Education in

128 accordance with department guidelines of its participation as a BEAT student scholarship
129 donor under this article.
130 (c) The Department of Education shall maintain on its website a current list of all student
131 scholarship organizations which have provided notice pursuant to subsection (b) of this
132 Code section.
133 (d) The Department of Revenue shall provide a list of all BEAT student scholarship donors
134 granted a tax credit under Code Section 48-7-29.161 to the General Assembly by January
135 30 of each year."

136 **SECTION 4.**

137 This Act shall become effective upon its approval by the Governor or upon its becoming law
138 without such approval and shall be applicable to all taxable years beginning on or after
139 January 1, 2015.

140 **SECTION 5.**

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