

House Bill 236

By: Representatives Teasley of the 37th, Cantrell of the 22nd, Brockway of the 102nd, Duncan of the 26th, Fleming of the 121st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-29.16 of the Official Code of Georgia Annotated, relating to
2 the qualified education tax credit, so as to increase the aggregate amount of tax credits
3 allowed; to provide for two separate application dates; to provide for an automatic annual
4 increase; to provide for rollover of tax credits; to provide for resubmittal of applications; to
5 provide for an effective date and applicability; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 48-7-29.16 of the Official Code of Georgia Annotated, relating to the qualified
10 education tax credit, is amended by revising subsection (f) as follows:

11 "(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code
12 section exceed ~~\$58~~ \$150 million per tax year; provided, however, that such aggregate
13 amount shall be increased by \$7.5 million beginning in tax year 2019 and each tax year
14 thereafter.

15 (2) The commissioner shall allow the tax credits on a first come, first served basis;
16 provided, however, that two separate application windows shall be established. An initial
17 application window shall begin on January 1 of each year for tax credits not to exceed
18 \$100 million per tax year, and a subsequent application window will begin on July 1 of
19 each year for tax credits not to exceed \$50 million per tax year; provided, however, that
20 the initial application window beginning on January 1, 2019, shall be increased by \$5
21 million and each tax year thereafter, and the subsequent application window beginning
22 on July 1, 2019, shall be increased by \$2.5 million and each tax year thereafter.

23 (3) For the purposes of ~~paragraph (1)~~ paragraphs (1) and (2) of this subsection, a student
24 scholarship organization shall notify a potential donor of the requirements of this Code
25 section. Before making a contribution to a student scholarship organization, the taxpayer
26 shall electronically notify the department, in a manner specified by the department, of the

27 total amount of contributions that the taxpayer intends to make to the student scholarship
 28 organization. The commissioner shall preapprove or deny the requested amount within
 29 30 days after receiving the request from the taxpayer and shall provide notice to the
 30 taxpayer and the student scholarship organization of such preapproval or denial which
 31 shall not require any signed release or notarized approval by the taxpayer. In order to
 32 receive a tax credit under this Code section, the taxpayer shall make the contribution to
 33 the student scholarship organization within 60 days after receiving notice from the
 34 department that the requested amount was preapproved. If the taxpayer does not comply
 35 with this paragraph, the commissioner shall not include this preapproved contribution
 36 amount when calculating the ~~limit~~ limits prescribed in paragraph (1) or (2) of this
 37 subsection. The department shall establish a web based donation approval process to
 38 implement this subsection.

39 (4) Preapproval of contributions by the commissioner shall be based solely on the
 40 availability of tax credits subject to the aggregate total limit established
 41 under paragraph (1) of this subsection and subject to the limits established for each
 42 application window in paragraph (2) of this subsection; provided, however, that any
 43 contributions which are preapproved by the commissioner pursuant to the initial
 44 application window beginning on January 1 of any tax year for which the taxpayer does
 45 not make such contributions within 60 days shall be added to the limit established for the
 46 subsequent application window that begins on the following July 1. An application that
 47 does not receive preapproval by the commissioner in the initial application window that
 48 begins on January 1 of each tax year shall not be carried forward but may be resubmitted
 49 by the taxpayer in the subsequent application window that begins on July 1 of each tax
 50 year. The department shall maintain an ongoing, current list on its website of the amount
 51 of tax credits available under this Code section.

52 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
 53 action against donors to student scholarship organizations if the commissioner
 54 preapproved a donation for a tax credit prior to the date the student scholarship
 55 organization is removed from the Department of Education list pursuant to Code Section
 56 20-2A-7, and all such donations shall remain as preapproved tax credits subject only to
 57 the donor's compliance with paragraph (3) of this subsection."

58 **SECTION 2.**

59 This Act shall become effective upon its approval by the Governor or upon its becoming law
 60 without such approval and shall be applicable to all taxable years beginning on or after
 61 January 1, 2018.

62

SECTION 3.

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