

ADOPTED

Representatives Lott of the 122nd and Hatchett of the 150th offer the following amendment:

1 *Amend HB 321 (LC 43 1390S) by striking all matter between lines 1 and 338 and inserting*
 2 *in lieu thereof the following:*

3 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
 4 provide for the posting of certain documents on hospital websites; to provide for
 5 requirements; to provide for a definition; to provide for conflicting interest transactions for
 6 members of hospital authorities; to extend the sunset provision for the hospital Medicaid
 7 financing program; to amend Code Section 48-7-29.20 of the Official Code of Georgia
 8 Annotated, relating to tax credits for contributions to rural health organizations, so as to
 9 provide for undesignated contributions, reporting, and an annual credit; to extend the sunset
 10 provision for the tax credit; to provide for an effective date; to repeal conflicting laws; and
 11 for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
 15 a new Code section to Article 1 of Chapter 7, relating to regulation of hospitals and related
 16 institutions, to read as follows:

17 "31-7-22.

18 (a) As used in this Code section, the term 'hospital' means a nonprofit hospital, a hospital
 19 owned or operated by a hospital authority, or a nonprofit corporation formed, created, or
 20 operated by or on behalf of a hospital authority.

21 (b) Beginning October 1, 2019, each hospital in this state shall post a link in a prominent
 22 location on the main page of its website to the most recent version of the following
 23 documents:

24 (1) Federal related disclosures:

25 (A) Copies of audited financial statements that are general purpose financial
 26 statements, which express the unqualified opinion of an independent certified public
 27 accounting firm for the most recently completed fiscal year for the hospital; each of its
 28 affiliates, except those affiliates that were inactive or that had an immaterial amount of
 29 total assets; and the hospital's parent corporation that include the following:

30 (i) A PDF version of all audited financial statements;

31 (ii) A note in the hospital's audited financial statements that identifies individual
32 amounts for such hospital's gross patient revenue, allowances, charity care, and net
33 patient revenue;

34 (iii) Audited consolidated financial statements for hospitals with subsidiaries and
35 consolidating financial statements that at a minimum contain a balance sheet and
36 statement of operations and that provide a breakout of the hospital's and each
37 subsidiary's numbers with a report from independent accountants on other financial
38 information; and

39 (iv) Audited consolidated financial statements for the hospital's parent corporation
40 and consolidating financial statements that at a minimum contain a balance sheet and
41 statement of operations and that provide a breakout of the hospital's and each
42 affiliate's numbers with a report from independent accountants on other financial
43 information; and

44 (B) Copy of audited Internal Revenue Service Form 990, including Schedule H for
45 hospitals and other applicable attachments; provided, however, that for any hospital not
46 required to file IRS Form 990, the department shall establish and provide a form that
47 collects the same information as is contained in Internal Revenue Service Form 990,
48 including Schedule H for hospitals, as applicable; and

49 (2) Georgia supplemental disclosures:

50 (A) Copy of the hospital's completed annual hospital questionnaire, as required by the
51 department;

52 (B) The community benefit report prepared pursuant to Code Section 31-7-90.1, if
53 applicable;

54 (C) The disproportionate share hospital survey, if applicable;

55 (D) Listing of all real property holdings of the hospital, including the location and size,
56 parcel ID number, purchase price, current use, and any improvements made to such
57 property;

58 (E) Listing of any ownership or interest the nonprofit hospital has in any joint venture,
59 partnership, subsidiary holding company, or captive insurance company; where any
60 such entity is domiciled; and the value of any such ownership or interest;

61 (F) Listing of any bonded indebtedness, outstanding loans, and bond defaults, whether
62 or not in forbearance; and any bond disclosure sites of the hospital;

63 (G) A report that identifies by purpose, the ending fund balances of the net assets of
64 the hospital and each affiliate as of the close of the most recently completed fiscal year,
65 distinguishing between donor permanently restricted, donor temporarily restricted,
66 board restricted and unrestricted fund balances. The hospital's interest in its foundation
67 shall be deducted from the foundation's total fund balance;

- 68 (H) Copy of all going concern statements regarding the hospital;
 69 (I) The most recent legal chart of corporate structure, including the hospital, each of
 70 its affiliates and subsidiaries, and its parent corporation, duly dated;
 71 (J) Report listing the salaries and fringe benefits for the ten highest paid administrative
 72 positions in the hospital. Each position shall be identified by its complete,
 73 unabbreviated title. Fringe benefits shall include all forms of compensation, whether
 74 actual or deferred, made to or on behalf of the employee, whether full or part-time;
 75 (K) Evidence of accreditation by accrediting bodies, including, but not limited to, the
 76 Joint Commission and DNV; and
 77 (L) Copy of the hospital's policies regarding the provision of charity care and reduced
 78 cost services to the indigent, excluding medical assistance recipients, and its debt
 79 collection practices.
- 80 (c) Each hospital shall update the documents in the links posted pursuant to subsection (b)
 81 of this Code section on July 1 of each year or more frequently at its discretion. Noncurrent
 82 documents shall remain posted and accessible on the hospital's website indefinitely.
- 83 (d) All documents listed in subsection (b) of this Code section shall be prepared in
 84 accordance with generally accepted accounting principles, as applicable.
- 85 (e) The department shall also post a link in a prominent location on its website to the
 86 documents listed in subsection (b) of this Code section for each hospital in this state.
- 87 (f) Any hospital that fails to post the documents required pursuant to subsection (b) of this
 88 Code section within 30 days of the dates required in this Code section shall be suspended
 89 from receiving any state funds or any donations pursuant to Code Section 48-7-29.20;
 90 provided, however, that the department shall provide a hospital notice of any deficiency
 91 and opportunity to correct such deficiency prior to any suspension of funds pursuant to this
 92 subsection.
- 93 (g) The department shall have jurisdiction to enforce this Code section and to promulgate
 94 rules and regulations required to administer this Code section.
- 95 (h) Any person who knowingly and willfully includes false, fictitious, or fraudulent
 96 information in any documents required to be posted pursuant to this Code section shall be
 97 subject to a violation of Code Section 16-10-20."

98 **SECTION 2.**

99 Said title is further amended by adding a new Code section to Article 4 of Chapter 7, relating
 100 to hospital authorities, to read as follows:

101 "31-7-74.4.
 102 Members on the board of a hospital authority at the time of a sale or lease of a hospital
 103 owned by such hospital authority shall be deemed directors and subject to the provisions
 104 of Part 6 of Article 8 of Chapter 3 of Title 14, relating to conflicting interest transactions
 105 with respect to the proceeds of such sale or lease."

106 SECTION 3.

107 Said title is further amended by revising Code Section 31-8-9.1, relating to eligibility to
 108 receive tax credits and obligations of rural hospitals after receipt of funds, as follows:

109 "31-8-9.1.

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

111 (1) 'Critical access hospital' means a hospital that meets the requirements of the federal
 112 Centers for Medicare and Medicaid Services to be designated as a critical access hospital
 113 and that is recognized by the department as a critical access hospital for purposes of
 114 Medicaid.

115 (2) 'Rural county' means a county having a population of less than 50,000 according to
 116 the United States decennial census of 2010 or any future such census; provided, however,
 117 that for counties which contain a military base or installation, the military personnel and
 118 their dependents living in such county shall be excluded from the total population of such
 119 county for purposes of this definition.

120 (3) 'Rural hospital organization' means an acute care hospital licensed by the department
 121 pursuant to Article 1 of Chapter 7 of this title that:

122 (A) Provides inpatient hospital services at a facility located in a rural county or is a
 123 critical access hospital;

124 (B) Participates in both Medicaid and medicare and accepts both Medicaid and
 125 medicare patients;

126 (C) Provides health care services to indigent patients;

127 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
 128 charity care, or bad debt;

129 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
 130 with the department, or for any hospital not required to file IRS Form 990, the
 131 department will provide a form that collects the same information to be submitted to the
 132 department on an annual basis;

133 (F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7
 134 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the
 135 Internal Revenue Code; ~~and~~

136 (G) Is current with all audits and reports required by law; and

137 (H) Has a three-year average patient margin, as a percent of expense, less than one
 138 standard deviation above the state-wide three-year average of organizations defined in
 139 subparagraphs (A) through (G) of this paragraph, as calculated by the department. For
 140 purposes of this subparagraph, the term 'patient margin' means gross patient revenues
 141 less contractual adjustments, bad debt, indigent and charity care, other uncompensated
 142 care, and total expenses.

143 (b)(1) By December 1 of each year, the department shall approve a list of rural hospital
 144 organizations eligible to receive contributions from the tax credit provided pursuant to
 145 Code Section 48-7-29.20 and transmit such list to the Department of Revenue.

146 (2) Before any rural hospital organization is included on the list as eligible to receive
 147 contributions from the tax credit provided pursuant to Code Section 48-7-29.20, it shall
 148 submit to the department a five-year plan detailing the financial viability and stability of
 149 the rural hospital organization. The criteria to be included in the five-year plan shall be
 150 established by the department.

151 (3) The department shall create an operations manual for identifying rural hospital
 152 organizations and ranking such rural hospital organizations in order of financial need.

153 Such manual shall include:

154 (A) All deadlines for submitting required information to the department;

155 (B) The criteria to be included in the five-year plan submitted pursuant to paragraph (2)
 156 of this subsection; and

157 (C) The formula applied to rank the rural hospital organizations in order of financial
 158 need.

159 (c)(1) A rural hospital organization that receives donations pursuant to Code Section
 160 48-7-29.20 shall:

161 (A) Utilize such donations for the provision of health care related services for residents
 162 of a rural county or for residents of the area served by a critical access hospital; and

163 (B) Report on a form provided by the department:

164 (i) All contributions received from individual and corporate donors pursuant to Code
 165 Section 48-7-29.20 detailing the manner in which the contributions received were
 166 expended by the rural hospital organization; and

167 (ii) Any payments made to a third party to solicit, administer, or manage the
 168 donations received by the rural hospital organization pursuant to this Code section or
 169 Code Section 48-7-29.20. In no event shall payments made to a third party to solicit,
 170 administer, or manage the donations received pursuant to this Code section exceed 3
 171 percent of the total amount of the donations.

172 (2) The department shall annually prepare a report compiling the information received
 173 pursuant to paragraph (1) of this subsection for the chairpersons of the House Committee
 174 on Ways and Means and the Senate Health and Human Services Committee.

175 (d) The department shall post the following information in a prominent location on its
 176 website:

177 (1) The list of rural hospital organizations eligible to receive contributions established
 178 pursuant to paragraph (1) of subsection (b) of this Code section;

179 (2) The operations manual created pursuant to paragraph (3) of subsection (b) of this
 180 Code section;

181 (3) The annual report prepared pursuant to paragraph (2) of subsection (c) of this Code
 182 section;

183 (4) The total amount received by each third party that participated in soliciting,
 184 administering, or managing donations; and

185 (5) A link to the Department of Revenue's website containing the information included
 186 in subsection (d) of Code Section 48-7-29.20."

187 **SECTION 4.**

188 Said title is further amended by revising Code Section 31-8-179.6, relating to the termination
 189 date of the hospital Medicaid financing program, as follows:

190 "31-8-179.6.

191 This article shall stand repealed on June 30, ~~2020~~ 2025, unless reauthorized by the General
 192 Assembly prior to that date."

193 **SECTION 5.**

194 Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits
 195 for contributions to rural hospital organizations, is amended as follows:

196 "48-7-29.20.

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

198 (1) 'Qualified rural hospital organization expense' means the contribution of funds by an
 199 individual or corporate taxpayer to a rural hospital organization for the direct benefit of
 200 such organization during the tax year for which a credit under this Code section is
 201 claimed.

202 (2) 'Rural hospital organization' means an organization that is approved by the
 203 Department of Community Health pursuant to Code Section 31-8-9.1.

204 (b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter
 205 for qualified rural hospital organization expenses as follows:

206 (1) In the case of a single individual or a head of household, the actual amount expended;

207 (2) In the case of a married couple filing a joint return, the actual amount expended; or
208 (3) In the case of an individual who is a member of a limited liability company duly
209 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
210 partnership, the amount expended; provided, however, that tax credits pursuant to this
211 paragraph shall be allowed only for the portion of the income on which such tax was
212 actually paid by such individual.

213 (b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited
214 in its qualified rural hospital organization expenses allowable for credit under this Code
215 section, and the commissioner shall not approve qualified rural hospital organization
216 expenses incurred from January 1 to June 30 each taxable year, which exceed the following
217 limits:

218 (1) In the case of a single individual or a head of household, \$5,000.00;

219 (2) In the case of a married couple filing a joint return, \$10,000.00; or

220 (3) In the case of an individual who is a member of a limited liability company duly
221 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
222 partnership, \$10,000.00.

223 (c) A corporation or other entity shall be allowed a credit against the tax imposed by this
224 chapter for qualified rural hospital organization expenses in an amount not to exceed the
225 actual amount expended or 75 percent of the corporation's income tax liability, whichever
226 is less.

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

231 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
232 section exceed \$60 million per taxable year.

233 (2)(A) No more than \$4 million of the aggregate limit established by paragraph (1) of
234 this subsection shall be contributed to any individual rural hospital organization in any
235 taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
236 preapprove contributions submitted by individual taxpayers in an amount not to exceed
237 \$2 million, and from corporate donors in an amount not to exceed \$2 million. From
238 July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
239 of this subsection and the individual rural hospital organization limit in this paragraph,
240 the commissioner shall approve contributions submitted by individual taxpayers and
241 corporations or other entities.

242 (B) In the event an individual or corporate donor desires to make a contribution to an
243 individual rural hospital organization that has received the maximum amount of

244 contributions for that taxable year, the Department of Community Health shall provide
245 the individual or corporate donor with a list, ranked in order of financial need, as
246 determined by the Department of Community Health, of rural hospital organizations
247 still eligible to receive contributions for the taxable year.

248 (C) In the event that an individual or corporate donor desires to make a contribution
249 to an unspecified or undesignated rural hospital organization, either directly to the
250 department or through a third party that participates in soliciting, administering, or
251 managing donations, such donation shall be attributed to the rural hospital organization
252 ranked with the highest financial need that has not yet received the maximum amount
253 of contributions for that taxable year, regardless of whether a third party has a
254 contractual relationship or agreement with such rural hospital organization.

255 (D) Any third party that participates in soliciting, advertising, or managing donations
256 shall provide the complete list of rural hospital organizations eligible to receive the tax
257 credit provided pursuant to this Code section including their ranking in order of
258 financial need as determined by the Department of Community Health pursuant to Code
259 Section 31-8-9.1, to any potential donor regardless of whether a third party has a
260 contractual relationship or agreement with such rural hospital organization.

261 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
262 organization shall notify a potential donor of the requirements of this Code section.
263 Before making a contribution to a rural hospital organization, the taxpayer shall
264 electronically notify the department, in a manner specified by the department, of the total
265 amount of contribution that the taxpayer intends to make to the rural hospital
266 organization. The commissioner shall preapprove or deny the requested amount within
267 30 days after receiving the request from the taxpayer and shall provide written notice to
268 the taxpayer and rural hospital organization of such preapproval or denial which shall not
269 require any signed release or notarized approval by the taxpayer. In order to receive a tax
270 credit under this Code section, the taxpayer shall make the contribution to the rural
271 hospital organization within 60 days after receiving notice from the department that the
272 requested amount was preapproved. If the taxpayer does not comply with this paragraph,
273 the commissioner shall not include this preapproved contribution amount when
274 calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

275 (4)(A) Preapproval of contributions by the commissioner shall be based solely on the
276 availability of tax credits subject to the aggregate total limit established under
277 paragraph (1) of this subsection and the individual rural hospital organization limit
278 established under paragraph (2) of this subsection.

279 (B) Any taxpayer preapproved by the department pursuant to subsection (e) of this
280 Code section shall retain their approval in the event the credit percentage in subsection
281 (b) of this Code section is modified for the year in which the taxpayer was preapproved.

282 (C) Upon the rural hospital organization's confirmation of receipt of donations that
283 have been preapproved by the department, any taxpayer preapproved by the department
284 pursuant to subsection (c) of this Code section shall receive the full benefit of the
285 income tax credit established by this Code section even though the rural hospital
286 organization to which the taxpayer made a donation does not properly comply with the
287 reports or filings required by this Code section.

288 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
289 action against donors to rural hospital organizations if the commissioner preapproved a
290 donation for a tax credit prior to the date the rural hospital organization is removed from
291 the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such
292 donations shall remain as preapproved tax credits subject only to the donor's compliance
293 with paragraph (3) of this subsection.

294 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of
295 confirmation of donation issued by the rural hospital organization to which the contribution
296 was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer
297 files an electronic return, such confirmation shall only be required to be electronically
298 attached to the return if the Internal Revenue Service allows such attachments when the
299 return is transmitted to the department. In the event the taxpayer files an electronic return
300 and such confirmation is not attached because the Internal Revenue Service does not, at the
301 time of such electronic filing, allow electronic attachments to the Georgia return, such
302 confirmation shall be maintained by the taxpayer and made available upon request by the
303 commissioner. The letter of confirmation of donation shall contain the taxpayer's name,
304 address, tax identification number, the amount of the contribution, the date of the
305 contribution, and the amount of the credit.

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

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

312 (i) The department shall post the following information in a prominent location on its
313 website:

314 (1) All pertinent timelines relating to the tax credit, including, but not limited to:

- 315 (A) Beginning date when contributions can be submitted for preapproval by donors for
 316 the January 1 to June 30 period;
- 317 (B) Ending date when contributions can be submitted for preapproval by donors for the
 318 January 1 to June 30 period;
- 319 (C) Beginning date when contributions can be submitted for preapproval by donors for
 320 the July 1 to December 31 period;
- 321 (D) Ending date when contributions can be submitted for preapproval by donors for the
 322 July 1 to December 31 period; and
- 323 (E) Date by which preapproved contributions are required to be sent to the rural
 324 hospital organization;
- 325 (2) The list and ranking order of rural hospital organizations eligible to receive
 326 contributions established pursuant to paragraph (1) of subsection (b) of Code Section
 327 31-8-9.1;
- 328 (3) A monthly progress report including:
- 329 (A) Total preapproved contributions to date by rural hospital organization;
 330 (B) Total contributions received to date by rural hospital organization;
 331 (C) Total aggregate amount of preapproved contributions made to date; and
 332 (D) Aggregate amount of tax credits available;
- 333 (4) A list of all preapproved contributions that were made to an unspecified or
 334 undesignated rural hospital organization and the rural hospital organizations that received
 335 such contributions.
- 336 (j) The Department of Audits and Accounts shall annually conduct an audit of the tax
 337 credit program established under this Code section, including the amount and recipient
 338 rural hospital organization of all contributions made, all tax credits received by individual
 339 and corporate donors, and all amounts received by third parties that solicited, administered,
 340 or managed donations pertaining to this Code section and Code Section 31-8-9.1.
- 341 (i)(k) This Code section shall stand automatically repealed on December 31, 2021 2024."

342 **SECTION 6.**

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

345 **SECTION 7.**

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