

House Bill 517 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Carson of the 46th, Knight of the 130th, Blackmon of the 146th, Newton of the 123rd, Belton of the 112th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to
2 student scholarship organizations, so as to provide for the inclusion of earned interest in the
3 calculation of minimum revenue obligations for scholarships and tuition grants; to require
4 that student scholarship organization audits are conducted in accordance with generally
5 accepted auditing standards; to provide for the expansion of the scope of such audits; to
6 provide for a deadline by which such audits shall be reported to the Department of Revenue;
7 to require that student scholarship organizations immediately notify the Department of
8 Education if the Department of Revenue ceases preapproving contributions to student
9 scholarship organizations; to require student scholarship organizations to annually submit
10 copies of Form 990s to the Department of Revenue; to provide that student scholarship
11 organizations are solely responsible for verifying student eligibility; to provide for expansion
12 of public reporting requirements; to amend Code Section 48-7-29.16, relating to qualified
13 education tax credits, so as to increase the limit available to individuals, heads of household,
14 married couples filing joint returns, and individuals who are members of certain limited
15 liability companies, shareholders of Subchapter "S" corporations, or partners in a partnership;
16 provide for related matters; to provide for effective dates and applicability; to repeal
17 conflicting laws; and for other purposes.

H. B. 517 (SUB)

- 1 -

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **PART I**
20 **SECTION 1-1.**

21 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
22 scholarship organizations, is amended by revising Code Section 20-2A-2, relating to
23 requirements for student scholarship organizations, as follows:

24 "20-2A-2.

25 Each student scholarship organization:

26 (1) With respect to the first \$1.5 million of its annual revenue received from donations
27 for scholarships or tuition grants, ~~must~~ including interest earned on deposits and
28 investments of scholarship funds or tuition grants, shall obligate at least 92 percent of
29 such revenue for scholarships or tuition grants; with respect to its annual revenue
30 received from donations for scholarships or tuition grants in excess of \$1.5 million and
31 up to and including \$10 million, ~~must~~ including interest earned on deposits and
32 investments of scholarship funds or tuition grants, shall obligate at least 94 percent of
33 such revenue for scholarships ~~and~~ or tuition grants; with respect to its annual revenue
34 received from donations for scholarships or tuition grants in excess of \$10 million and
35 up to and including \$20 million, ~~must~~ including interest earned on deposits and
36 investments of scholarship funds or tuition grants, shall obligate at least 95 percent of
37 such revenue for scholarships ~~and~~ or tuition grants; and, with respect to its annual
38 revenue received from donations for scholarships or tuition grants in excess of \$20
39 million, ~~must~~ including interest earned on deposits and investments of scholarship funds
40 or tuition grants, shall obligate at least 96 percent of such revenue for scholarships ~~and~~
41 or tuition grants. On or before the end of the calendar year following the calendar year
42 in which a student scholarship organization receives revenues from donations and

43 obligates them for the awarding of scholarships or tuition grants, the student scholarship
44 organization shall designate the obligated revenues for specific student recipients. Once
45 the student scholarship organization designates obligated revenues for specific student
46 recipients, in the case of multiyear scholarships or tuition grants, the student scholarship
47 organization may distribute the entire obligated and designated revenues to a qualified
48 school or program to be held in accordance with Department of Revenue rules for
49 distribution to the specified recipients during the years in which the recipients are
50 projected in writing by the private school to be enrolled at the qualified school or
51 program. In making a multiyear distribution to a qualified school or program, the student
52 scholarship organization shall require that if the designated student becomes ineligible
53 or for any other reason the qualified school or program elects not to continue
54 disbursement of the multiyear scholarship or tuition grant to the designated student for
55 all the projected years, then the qualified school or program shall immediately return the
56 remaining funds to the student scholarship organization. Once the student scholarship
57 organization designates obligated revenues for specific student recipients, in the case of
58 multiyear scholarships or tuition grants for which the student scholarship organization
59 distributes the obligated and designated revenues to a qualified school or program
60 annually rather than the entire amount, if the designated student becomes ineligible or for
61 any other reason the student scholarship organization elects not to continue disbursement
62 for all years, then the student scholarship organization shall designate any remaining
63 previously obligated revenues for a new specific student recipient on or before the end
64 of the following calendar year. The maximum scholarship amount given by the student
65 scholarship organization in any given year shall not exceed the average state and local
66 expenditures per student in fall enrollment in public elementary and secondary education
67 for this state. The Department of Education shall determine and publish such amount
68 annually, no later than January 1;

- 69 (1.1) In awarding scholarships or tuition grants, shall consider financial needs of students
70 based on all sources, including the federal adjusted gross income from the federal income
71 tax return most recently filed by the parents or guardians of such students, as adjusted for
72 family size. If the parents or guardians of a student have not filed a federal income tax
73 return in either of the two calendar years immediately preceding the year of application,
74 the student scholarship organization shall consider the financial need of the student based
75 on proof of employment income of the parents or guardians from the 30 consecutive days
76 closest to when the applicant submitted the scholarship application and on any other
77 sources of income, including, but not limited to, unemployment benefits, social security
78 benefits, and child support benefits;
- 79 (2) ~~Shall~~ **Must** maintain separate accounts for scholarship funds and operating funds.
80 Until obligated revenues are designated for specific student recipients, the student
81 scholarship organization shall hold the obligated revenues in a bank or investment
82 account owned by the student scholarship organization and over which it has complete
83 control; provided, however, that interest earned on deposits and investments of
84 scholarship funds and tuition grants shall be included in the calculation of the minimum
85 obligations provided for in paragraph (1) of this Code section;
- 86 (3) ~~Shall~~ **Must** have an independent board of directors with at least three members;
- 87 (4) May transfer funds to another student scholarship organization;
- 88 (5) Within 120 days after the completion of the student scholarship organization's fiscal
89 year, shall **Must** conduct an audit of its accounts by an independent certified public
90 accountant ~~within 120 days after the completion of the student scholarship organization's~~
91 ~~fiscal year~~ in accordance with generally accepted auditing standards verifying that ~~it~~ the
92 student scholarship organization has complied with all requirements of this Code section
93 chapter, including, but not limited to, scholarship fund management requirements,
94 operational fund management requirements, other financial requirements, student
95 eligibility requirements, school qualification requirements, and other scholarship

96 management requirements. Within 60 days of completion of such audit, each Each
97 student scholarship organization shall provide a copy of such audit to the Department of
98 Revenue in accordance with Code Section 20-2A-3. Notwithstanding Code Sections
99 20-2A-7, 48-2-15, 48-7-60, and 48-7-61, if the copy of the audit submitted fails to verify
100 that the student scholarship organization obligated its annual revenue received from
101 donations for scholarships or tuition grants, including interest earned on deposits and
102 investments of such funds, as required under paragraph (1) of this Code section; that
103 obligated revenues were designated for specific student recipients within the time frame
104 required by paragraph (1) of this Code section; and that all obligated and designated
105 revenue distributed to a qualified school or program for the funding of multiyear
106 scholarships or tuition grants complied with all applicable Department of Revenue rules,
107 then the Department of Revenue shall post on its website the details of such failure to
108 verify. Until any such noncompliant student scholarship organization submits an
109 amended audit, which, to the satisfaction of the Department of Revenue, contains the
110 verifications required under this Code section, the Department of Revenue shall not
111 preapprove any contributions to the noncompliant student scholarship organization;

112 (5.1) In addition to the audit required by paragraph (5) of this Code section, in 2023, the
113 state auditor shall issue an economic analysis report on the performance of this tax credit
114 to the chairpersons of the House Committee on Ways and Means and the Senate Finance
115 Committee. An economic analysis shall include, but not be limited to, a good faith
116 estimate, on both a direct and indirect basis, as to the:

117 (A) Net change in state revenue;

118 (B) Net change in state expenditures, which shall include, but not be limited to, costs
119 of administering the tax credit;

120 (C) Net change in economic activity; and

121 (D) Net change in public benefit; ~~and~~

- 122 (6) ~~Shall~~ Must annually submit notice to the Department of Education in accordance with
 123 department guidelines of its participation as a student scholarship organization under this
 124 chapter; provided, however, that the student scholarship organization shall immediately
 125 notify the Department of Education if the Department of Revenue has temporarily or
 126 permanently ceased preapproving contributions to the student scholarship organization
 127 in accordance with the provisions of paragraph (5) of this Code section;
 128 (7) Shall annually submit to the Department of Revenue a copy of its most recent Form
 129 990 filed with the United States Internal Revenue Service; and
 130 (8) Shall be solely responsible for verifying the eligibility of students for participation
 131 in the program provided for in this chapter."

132 **SECTION 1-2.**

133 Said chapter is amended further by revising Code Section 20-2A-3, relating to taxation
 134 reporting requirements for student scholarship organizations, as follows:

135 "20-2A-3.

136 (a) Each student scholarship organization ~~must~~ shall report annually to the Department of
 137 Revenue, on a date determined by the Department of Revenue, subject to the time limits
 138 provided for in paragraph (5) of Code Section 20-2A-2, and on a form provided by the
 139 Department of Revenue, the following information:

- 140 (1) The total number and dollar value of individual contributions and tax credits
 141 approved. Individual contributions shall include contributions made by those filing
 142 income tax returns as a single individual or head of household and those filing joint
 143 returns;
 144 (2) The total number and dollar value of corporate contributions and tax credits
 145 approved;
 146 (3) The total number and dollar value of scholarships awarded to eligible students;

147 (4) The total number of scholarship recipients whose family's adjusted gross income
148 falls:

149 (A) Under 125 percent of the federal poverty level;

150 (B) Between 125 and 250 percent of the federal poverty level;

151 (C) Between 250 and 400 percent of the federal poverty level; and

152 (D) Above 400 percent of the federal poverty level;

153 (5) The average scholarship dollar amount by adjusted gross income category as
154 provided in paragraph (4) of this subsection; and

155 (6) A list of donors, including the dollar value of each donation and the dollar value of
156 each approved tax credit.

157 Such report shall also include a copy of the audit conducted pursuant to paragraph (5) of
158 Code Section 20-2A-2. The Department of Revenue shall post on its website the
159 information received from each student scholarship organization pursuant to paragraphs
160 (1) through (5) of this subsection and the report of the student scholarship organization's
161 most recent audit conducted pursuant to paragraph (5) of Code Section 20-2A-2 , except
162 that no information of confidential taxpayer information contained in such audit report
163 shall be posted or otherwise disclosed to the public by the Department of Revenue.

164 (b) Except for the allowable information included in the report of the audit conducted
165 pursuant to paragraph (5) of Code Section 20-2A-2 and the information reported pursuant
166 to paragraphs (1) through (5) of subsection (a) of this Code section, all information or
167 reports provided by student scholarship organizations to the Department of Revenue shall
168 be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and
169 48-7-61, whether it relates to the donor or the student scholarship organization."

170

PART II

171

SECTION 2-1.

172 Code Section 48-7-29.16 of the Official Code of Georgia Annotated, relating to qualified
173 education tax credits, is amended by revising subsection (b) as follows:

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

176 (1) In the case of a single individual or a head of household, the actual amount expended
177 or ~~\$1,000.00~~ \$2,500.00 per tax year, whichever is less;

178 (2) In the case of a married couple filing a joint return, the actual amount expended or
179 ~~\$2,500.00~~ \$5,000.00 per tax year, whichever is less; or

180 (3) Anything to the contrary contained in paragraph (1) or (2) of this subsection
181 notwithstanding, in the case of an individual who is a member of a limited liability
182 company duly formed under state law, a shareholder of a Subchapter 'S' corporation, or
183 a partner in a partnership, the amount expended or ~~\$10,000.00~~ \$25,000.00 per tax year,
184 whichever is less; provided, however, that tax credits pursuant to this paragraph shall
185 only be allowed for the portion of the income on which such tax was actually paid by
186 such member of the limited liability company, shareholder of a Subchapter 'S'
187 corporation, or partner in a partnership."

188

PART III

189

SECTION 3-1.

190 This Act shall become effective on July 1, 2021; provided, however, that Part II of this Act
191 shall become effective on January 1, 2022, and shall be applicable to all taxable years
192 beginning on or after January 1, 2022.

193

SECTION 3-2.

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