

House Bill 1090

By: Representatives Newton of the 127<sup>th</sup>, Wiedower of the 121<sup>st</sup>, Gullett of the 19<sup>th</sup>, Crowe of the 118<sup>th</sup>, and Hutchinson of the 106<sup>th</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, computation, exemptions, and credits relative to income  
3 taxes, so as to expand the tax credit for contributions to foster child support organizations to  
4 allow such organizations to include as qualified expenditures wraparound and mentorship  
5 services for justice involved youth; to expand the wraparound services that are qualified  
6 expenditures; to provide for such tax credits to be used by certain insurance companies  
7 against certain tax liability; to provide for conditions and limitations; to provide for reporting  
8 requirements; to remove the prohibition of allowing such a tax credit for qualified  
9 contributions that were utilized as a deduction or exemption from taxable income; to provide  
10 for definitions; to provide for related matters; to provide for an effective date and  
11 applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
15 imposition, rate, computation, exemptions, and credits relative to income taxes, is amended

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16 by revising Code Section 48-7-29.24, relating to tax credits for contributions to foster child  
17 support organizations, as follows:

18 "48-7-29.24.

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

20 (1) 'Aging foster children' means:

21 (A) Foster children aged 16 through 18 that would benefit based on projected status at  
22 age 18, as determined by the division; and

23 (B) Former foster children up to and including age 21, or age 25 if legally possible,  
24 who have not been adopted or reunited with families.

25 (2) 'Aging-out program' means a program with the primary function of supporting aging  
26 foster children and justice involved youth.

27 (2.1) 'Business enterprise' means any insurance company or the headquarters of any  
28 insurance company required to pay the tax provided for in Code Section 33-8-4.

29 (3) 'Division' means the Division of Family and Children Services of the Department of  
30 Human Services.

31 (4) 'Foster child support organization' means:

32 (A) The aging-out program of the Technical College System of Georgia Foundation;

33 (B) The aging-out program of the University System of Georgia Foundation, provided  
34 that such program is certified by the Governor's Office of Planning and Budget as an  
35 aging-out program; or

36 (C) Any domestic nonprofit corporation which maintains nonprofit status under  
37 Section 501(c)(3) of the Internal Revenue Code and tax exempt status under Code  
38 Section 48-7-25, that has the primary function of:

39 (i) Operating an aging-out program or operating as or supporting a Georgia licensed  
40 child-placing agency; or

41 (ii) Disbursing funds directly to one or more of the entities identified in  
42 subparagraphs (A) or (B) or division (C)(i) of this paragraph.

43 (4.1) 'Justice involved youth' means children and youth between the ages of 18 and 21,  
44 or age 25 if legally possible, who:

45 (A) Were previously or are currently committed to the Department of Juvenile Justice  
46 pursuant to a court order as authorized by paragraph (11) of subsection (a) of Code  
47 Section 15-11-601; and

48 (B) As a result of such commitment, have been previously placed or are currently  
49 placed in a nonsecure facility or community setting.

50 (4.2) 'Mentorship services' means support services directly provided to an aging foster  
51 child or justice involved youth by a mentor, such as role modeling, informal counseling,  
52 guiding, motivating, and sharing time together.

53 (5) 'Qualified contributions' means the preapproved contribution of funds made during  
54 the taxable year by a taxpayer or business enterprise to a qualified organization under the  
55 terms and conditions of this Code section.

56 (6) 'Qualified expenditures' means expenditures made by a qualified organization for:

57 (A) The costs associated with tuition waivers granted pursuant to Code Section  
58 20-3-660;

59 (B) Wraparound services for ~~individuals~~ aging foster children and justice involved  
60 youth who are:

61 (1) Enrolled in attending a public postsecondary educational institution under a  
62 waiver granted pursuant to Code Section 20-3-660; or

63 (2) Enrolled in a program to obtain a high school diploma or its equivalent;

64 (3) Enrolled in a nationally accredited vocational school; or

65 (4) Participating in a registered apprenticeship program approved by state or federal  
66 authorities, provided that the participant and the organization for which the participant  
67 is an apprentice document that the participant is compliant with the rules of the  
68 apprenticeship program.

69 (C) Mentorship services provided to aging foster children and justice involved youth,  
 70 provided that such expenditures shall not include:

71 (1) Compensation for a single mentor which exceeds no mentor shall be compensated  
 72 in excess of \$100.00 per month for an aging foster child or justice involved youth or  
 73 \$500.00 \$1,200.00 per year for any aging foster child or justice involved youth; or

74 (2) Payments made to employees of a qualified organization who perform duties  
 75 other than providing mentorship services for the organization.

76 (7) 'Qualified organization' means a foster child support organization that has been  
 77 certified and listed by the division pursuant to subsection (d) of this Code section.

78 (8) 'Wraparound services' means services provided directly to aging foster children or  
 79 justice involved youth to support their education through high school completion,  
 80 vocational, and postsecondary education services, housing services, vocation services,  
 81 medical services, counseling services, mentorship services, nutrition services,  
 82 transportation services, or up to \$150.00 per month in direct cash payments for use on  
 83 personal necessities.

84 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not  
 85 exceed \$20 million per calendar year, to be calculated based on the actual receipts of  
 86 qualified contributions by qualified organizations.

87 (2) Subject to the aggregate limit provided in paragraph (1) of this subsection and the  
 88 limitations of subsection (b.1) of this Code section, each:

89 (A) Taxpayer taxpayer shall be allowed a credit against the tax imposed by this chapter  
 90 for qualified contributions made by the taxpayer on or after January 1, 2023, as follows:

91 (A)(i) In the case of a single individual or a head of household, the actual amount of  
 92 qualified contributions made;

93 (B)(ii) In the case of a married couple filing a joint return, the actual amount of  
 94 qualified contributions made;

95 ~~(C)~~(iii) Anything to the contrary contained in subparagraph (A) or (B) of this  
96 paragraph notwithstanding, in the case of an individual taxpayer who is a member of  
97 a limited liability company duly formed under state law, a shareholder of a  
98 Subchapter 'S' corporation, or a partner in a partnership, the actual amount of qualified  
99 contributions it made; provided, however, that tax credits pursuant to this paragraph  
100 shall only be allowed for the portion of the income on which such tax was actually  
101 paid by such member of the limited liability company, shareholder of a Subchapter  
102 'S' corporation, or partner in a partnership; or

103 ~~(D)~~(iv) A corporation or other entity not provided for in subparagraphs (A)  
104 through (C) of this paragraph shall be allowed a credit against the tax imposed by this  
105 chapter, for qualified contributions in an amount not to exceed the actual amount of  
106 qualified contributions made.

107 (B) Business enterprise shall be allowed a credit against the tax imposed by Code  
108 Section 33-8-4 in an amount equal to its qualified contributions.

109 (b.1) For the period beginning on January 1 and ending on June 30 of each year, an  
110 individual taxpayer shall not be allowed a credit against the tax imposed by this chapter for  
111 contributions, and the commissioner shall not preapprove any contributions, that exceed  
112 the following limits:

113 (1) In the case of a single individual or a head of household, \$2,500.00;

114 (2) In the case of a married couple filing a joint return, \$5,000.00;

115 (3) In the case of an individual who is a member of a limited liability company duly  
116 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a  
117 partnership, \$5,000.00; or

118 (4) In the case of a corporation or other entity not provided for in paragraphs (1) through  
119 (3) of this subsection, 10 percent of such entity's income tax liability.

120 (b.2) For the period beginning on July 1 and ending on December 31 of each year, to the  
121 extent that the total amount of tax credits authorized by subsection (b) of this Code section

122 has not been reached, the commissioner shall preapprove, deny, or prorate additional  
123 requested amounts on a first come, first served basis and shall provide notice to such  
124 taxpayer and the qualified organization of such preapproval, denial, or proration.

125 (c) ~~Not later than October 1, 2022, the~~ The commissioner shall establish a page on the  
126 department's website for the purpose of implementing this Code section. Such page shall  
127 contain, at a minimum:

128 (1) A link to the division's web based application for certification as a qualified  
129 organization as provided for in subsection (d) of this Code section;

130 (2) The current list of all qualified organizations;

131 (3) The total amount of tax credits remaining and available for preapproval for each year;

132 (4) A web based method for taxpayers or business enterprises seeking the preapproval  
133 status for contributions; and

134 (5) The information received by the department from each qualified organization  
135 pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv) of this Code  
136 section.

137 (d)(1) The division shall establish and maintain a web based application process for the  
138 purpose of certifying foster child support organizations as qualified organizations. At a  
139 minimum such application created by the division shall include an agreement submitted  
140 by the applicant to fully comply with the terms and conditions of this Code section.

141 (2) The division shall certify any valid foster child support organization as a qualified  
142 organization upon successful completion of such application process.

143 (3) The division shall certify any foster child support organization operating as a Georgia  
144 licensed child-placing agency as a qualified organization within ten days of receipt of a  
145 written request or application.

146 (4) ~~The division shall accept a first round of applications for certification as qualified~~  
147 ~~organizations by October 1, 2022, and shall certify and notify such applicants of the~~

148 ~~division's decision on or before November 30, 2022. Thereafter the~~ division shall  
149 establish a process for rolling applications and certifications.

150 (e)(1) Prior to making a contribution to any qualified organization, the taxpayer or  
151 business enterprise shall electronically notify the department, in a manner specified by  
152 the commissioner, of the total amount of contribution that such taxpayer or business  
153 enterprise intends to make to such qualified organization.

154 (2) Within 30 days after receiving a request for preapproval of contributions, the  
155 commissioner shall preapprove, deny, or prorate requested amounts on a first come, first  
156 served basis and shall provide notice to such taxpayer or business enterprise and the  
157 qualified organization of such preapproval, denial, or proration. Such notices shall not  
158 require any signed release or notarized approval by the taxpayer or business enterprise.  
159 The preapproval of contributions by the commissioner shall be based solely on the  
160 availability of tax credits subject to the aggregate total limit established under paragraph  
161 (1) of subsection (b) of this Code section.

162 (3) Within 60 days after receiving the preapproval notice issued by the commissioner  
163 pursuant to paragraph (2) of this subsection, the taxpayer or business enterprise shall  
164 contribute the preapproved amount to the qualified organization or such preapproved  
165 contribution amount shall expire. The commissioner shall not include such expired  
166 amounts in determining the remaining amount available under the aggregate limit for the  
167 respective calendar year.

168 (f)(1) Each qualified organization shall issue to each contributor a letter of confirmation  
169 of contribution, which shall include the taxpayer's or business enterprise's name, address,  
170 tax identification number, the amount of the qualified contribution, the date of the  
171 qualified contribution, and the total amount of the credit allowed to the taxpayer or  
172 business enterprise.

173 (2)(A) In order for a taxpayer or business enterprise to claim the tax credit allowed  
174 under this Code section, all such applicable letters as provided for in paragraph (1) of

175 this subsection shall be attached to the taxpayer's tax return or a business enterprise's  
176 tax return provided for in Code Section 33-8-6.

177 (B) If ~~When~~ the taxpayer files an electronic return, such confirmation shall only be  
178 required to be electronically attached to the return if the Internal Revenue Service  
179 allows such attachments to be affixed and transmitted to the department. In any such  
180 event, the taxpayer shall maintain such confirmation and such confirmation shall only  
181 be made available to the commissioner upon request.

182 (C) With respect to a business enterprise's tax return provided for in Code Section  
183 33-8-6, the Commissioner of Insurance is authorized to promulgate rules and  
184 regulations regarding the manner in which such letters of confirmation of donations  
185 shall be filed in the case of tax returns filed electronically.

186 (3) The commissioner shall allow tax credits for any preapproved contributions made to  
187 a qualified organization at the time the contributions were made if such organization was  
188 a qualified organization at the time of the commissioner's preapproval of the contributions  
189 and the taxpayer or business enterprise has otherwise complied with this Code section.

190 (g)(1) Each qualified organization shall annually submit to the department no later than  
191 May 15 of each year:

192 (A) A complete copy of its IRS Form 990 including applicable attachments, or for any  
193 qualified organization that is not required by federal law to file an IRS Form 990, such  
194 organization shall submit to the commissioner equivalent information on a form  
195 prescribed by the commissioner; and

196 (B) A report detailing the contributions received during the calendar year pursuant to  
197 this Code section on a date determined by, and on a form provided by, the  
198 commissioner which shall include:

199 (i) The total number and dollar value of individual contributions and tax credits  
200 approved. Individual contributions shall include contributions made by those filing



201 income tax returns as a single individual or head of household and those filing joint  
202 returns;

203 (ii) The total number and dollar value of corporate contributions and tax credits  
204 approved;

205 (iii) The total number and dollar value of all qualified expenditures made; ~~and~~

206 (iv) A list of contributors, including the dollar value of each contribution and the  
207 dollar value of each approved tax credit; and

208 (v) An accounting of the funds withheld from qualified contributions demonstrating  
209 that no more than 20 percent of such funds were withheld from qualified  
210 expenditures, as required by subparagraph (j)(1)(a) of this Code section.

211 (2) Except for the information published in accordance with subsection (c) of this Code  
212 section, all information or reports relative to this Code section that were provided by  
213 qualified organizations to the department shall be confidential taxpayer information,  
214 governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such information  
215 relates to the contributor or the qualified organization.

216 (h) By April 1 of each year each qualified organization shall publicly post on its website  
217 in a prominent place a copy of its prior year's annual budget containing the total amount  
218 of funds received from all sources relative to the amount of qualified contributions it  
219 received and the total amount and a description of how such contributions were utilized.

220 (i)(1) A taxpayer or business enterprise shall not be allowed to designate or direct the  
221 taxpayer's or business enterprise's qualified contributions to any particular purpose or for  
222 the direct benefit of any particular individual.

223 (2) A taxpayer or business enterprise that operates, owns, or is a subsidiary of an  
224 association, organization, or other entity that contracts directly with a qualified  
225 organization shall not be eligible for tax credits allowed under this Code section for  
226 contributions made to such qualified organization.

227 (3) In soliciting contributions, no person shall represent or direct that, in exchange for  
228 making qualified contributions to any qualified organization, a taxpayer or business  
229 enterprise shall receive any direct or particular benefit. The status as a qualified  
230 organization shall be revoked for any qualified organization determined to be in violation  
231 of this paragraph and shall not be renewed for at least two years.

232 (j)(1)(A) Each qualified organization shall use at least 80 percent of the funds received  
233 by it from qualified contributions to make qualified expenditures. Each qualified  
234 organization shall maintain accurate and current records of all expenditures of such  
235 funds and provide such records to the commissioner upon his or her request. In no  
236 event shall a qualified organization retain for its own use or apply to its overhead or  
237 administrative expenses more than 20 percent of the funds received pursuant to this  
238 Code section.

239 (B) No foster child support organization that meets only the definition of such term as  
240 provided in division (a)(4)(C)(ii) of this Code section shall retain more than 2.5 percent  
241 of qualified contributions for itself for any reason and shall only serve to pass all of its  
242 qualified contributions to one or more qualified organizations that are foster child  
243 support organizations as such term is defined in subparagraphs (a)(4)(A), (a)(4)(B), or  
244 division (a)(4)(C)(i) of this Code section.

245 (2) A qualified organization that fails to comply with any of the requirements under this  
246 Code section shall be given written notice by the department of such failure to comply  
247 by certified mail and shall have 90 days from the receipt of such notice to correct all  
248 deficiencies.

249 (3) Upon failure to correct all deficiencies within 90 days, the department shall revoke  
250 the foster child support organization's status as a qualified organization and such entity  
251 shall be immediately removed from the department's list of organizations. All  
252 applications for preapproval of tax credits for contributions to such foster child support

253 organization under this Code section made on or after the date of such removal shall be  
254 rejected.

255 (4) Each foster child support organization that has had its status revoked and has been  
256 delisted pursuant to this Code section, shall immediately cease all expenditures of funds  
257 received relative to this Code section, and shall transfer all of such funds that are not yet  
258 expended, to a properly operating qualified organization within 30 calendar days of its  
259 removal from the department's list of qualified organizations.

260 ~~(k)(1) No credit shall be allowed under this Code section to a taxpayer for any amount of~~  
261 ~~qualified contributions that were utilized as deductions or exemptions from taxable income.~~

262 ~~(2)~~ In no event shall the total amount of the tax credit under this Code section for a  
263 taxable year exceed the taxpayer's income tax liability or such business enterprise's state  
264 insurance premium tax liability owed pursuant to Code Section 33-8-4. Any unused tax  
265 credit shall be allowed the taxpayer or business enterprise against the succeeding five  
266 years' tax liability. No such credit shall be allowed the taxpayer or business enterprise  
267 against prior years' tax liability.

268 (l) The chairperson of the House Appropriations Committee and the chairperson of the  
269 Senate Committee on Appropriations shall have the authority to request an audit  
270 concerning this Code section as a whole or of any one or more qualified organizations. The  
271 commissioner, the state auditor, each qualified organization, each aging-out program, and  
272 the director of the division shall cooperate to the full extent necessary to conduct such  
273 audits.

274 (m) At the discretion of the commissioner or the director of the division, any suspected  
275 misuse of funds contributed or expended pursuant to this Code section shall be forwarded  
276 to the Attorney General for investigation and prosecution.

277 (n) The commissioner shall promulgate rules and regulations necessary to implement and  
278 administer the provisions of this Code section."

279 **SECTION 2.**

280 This Act shall become effective on July 1, 2024, and shall be applicable to all taxable years  
281 beginning on or after January 1, 2024.

282 **SECTION 3.**

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