

House Bill 328 (AS PASSED HOUSE AND SENATE)

By: Representatives Carpenter of the 4th, Hilton of the 48th, Carson of the 46th, Ridley of the 6th, Gaines of the 120th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 20 and 48 of the Official Code of Georgia Annotated, relating to education
2 and revenue and taxation, respectively, so as to revise provisions for student eligibility and
3 maximum scholarship amounts; to provide for military students and students with
4 Individualized Education Programs (IEPs), Section 504 Plans, or other designated
5 disabilities; to provide for such designation; to prohibit members of the General Assembly
6 and their spouses from receiving income from student scholarship organizations that receive
7 certain contributions; to provide for an alternative method for the deposit of a scholarship
8 award; to prohibit virtual instruction to out-of-system students if the local school system has
9 a College and Career Ready Performance Index average below 65 for the previous two
10 school years; to prohibit out-of-system students from being counted toward equalization
11 funds received by a local school system; to require local school systems that enroll
12 out-of-system students to compile a list of such out-of-system students; to increase the annual
13 aggregate limit of tax credits allowed for certain contributions to student scholarship
14 organizations; to increase the annual aggregate amount of such tax credits allowed for
15 business enterprises for state insurance premium tax liability; to increase the annual
16 aggregate limit for tax credits available for qualified education donations; to prohibit the use
17 of special district mass transportation sales and use taxes for the provision of free or reduced
18 fares for public transit services; to provide for time limits upon the recalling of an election
19 for approval of special districts for transit purposes sales and use tax (Transit SPLOST)
20 within nonattainment areas upon failure to approve; to provide for related matters; to provide
21 for effective dates and applicability; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 SECTION 1.

24 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in
25 Chapter 2A, relating to student scholarship organizations, by revising paragraph (1) of Code
26 Section 20-2A-1, relating to definitions, as follows:

27 "(1) 'Eligible student' means a student who is a Georgia resident who, immediately prior
28 to receiving a scholarship or tuition grant under Code Section 20-2A-2 and enrolling in
29 a qualified school or program, was enrolled in and attended for at least six weeks a
30 Georgia secondary or primary public school or who is eligible to enroll in a qualified first
31 grade, kindergarten program, or pre-kindergarten program; provided, however, that, if a
32 student is deemed an eligible student pursuant to this paragraph, he or she shall continue
33 to qualify as such until he or she graduates, reaches the age of 20, or returns to a public
34 school, whichever occurs first; and provided, further, that the enrollment and six-week
35 public school attendance requirements shall be waived in the case of a student whose
36 parent is an active duty military service member stationed in Georgia during the previous
37 year; a student with an Individualized Education Program (IEP) or a Section 504 Plan or
38 who has been diagnosed with dyslexia, autism spectrum disorder, speech-language delay
39 and disorder, hearing loss, or another intellectual and developmental disability designated
40 by the Department of Education pursuant to Code Section 20-2A-2; or a student who,
41 based on the school attendance zone of his or her primary residence, is or would be
42 assigned to a public school that the Office of Student Achievement determines to be a
43 low-performing school, who is the subject of officially documented cases of school based
44 physical violence or student related verbal abuse threatening physical harm, or who was
45 enrolled in a home study program meeting the requirements of subsection (c) of Code
46 Section 20-2-690 for at least one year immediately prior to receiving a scholarship or
47 tuition grant under Code Section 20-2A-2."

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SECTION 2.

Said title is further amended in said chapter by revising paragraph (1) of Code Section 20-2A-2, relating to requirements for student scholarship organizations, as follows:

"(1) With respect to the first \$1.5 million of its annual revenue received from donations for scholarships or tuition grants, including interest earned on deposits and investments of scholarship funds or tuition grants, shall obligate at least 92 percent of such revenue for scholarships or tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$1.5 million and up to and including \$10 million, including interest earned on deposits and investments of scholarship funds or tuition grants, shall obligate at least 94 percent of such revenue for scholarships or tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$10 million and up to and including \$20 million, including interest earned on deposits and investments of scholarship funds or tuition grants, shall obligate at least 95 percent of such revenue for scholarships or tuition grants; and, with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$20 million, including interest earned on deposits and investments of scholarship funds or tuition grants, shall obligate at least 96 percent of such revenue for scholarships or tuition grants. On or before the end of the calendar year following the calendar year in which a student scholarship organization receives revenues from donations and obligates them for the awarding of scholarships or tuition grants, the student scholarship organization shall designate the obligated revenues for specific student recipients. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants, the student scholarship organization may distribute the entire obligated and designated revenues to a qualified school or program to be held in accordance with Department of Revenue rules for distribution to the specified recipients during the years in which the recipients are projected in writing by the private school to be enrolled at the

75 qualified school or program. In making a multiyear distribution to a qualified school or
76 program, the student scholarship organization shall require that if the designated student
77 becomes ineligible or for any other reason the qualified school or program elects not to
78 continue disbursement of the multiyear scholarship or tuition grant to the designated
79 student for all the projected years, then the qualified school or program shall immediately
80 return the remaining funds to the student scholarship organization. Once the student
81 scholarship organization designates obligated revenues for specific student recipients, in
82 the case of multiyear scholarships or tuition grants for which the student scholarship
83 organization distributes the obligated and designated revenues to a qualified school or
84 program annually rather than the entire amount, if the designated student becomes
85 ineligible or for any other reason the student scholarship organization elects not to
86 continue disbursement for all years, then the student scholarship organization shall
87 designate any remaining previously obligated revenues for a new specific student
88 recipient on or before the end of the following calendar year. Unless the student has an
89 Individualized Education Program (IEP) or a Section 504 Plan or has been diagnosed
90 with dyslexia, autism spectrum disorder, speech-language delay and disorder, hearing
91 loss, or another intellectual and developmental disability (IDD) designated by the
92 Department of Education pursuant to this paragraph, the The maximum scholarship
93 amount given by the student scholarship organization in any given year shall not exceed
94 the average state and local expenditures per student in fall enrollment in public
95 elementary and secondary education for this state. The Department of Education shall
96 determine and publish such amount and such designated IDDs annually, no later than
97 January 1;"

98 **SECTION 3.**

99 Said title is further amended in said chapter by adding a new Code section to read as follows:

100 "20-2A-2.2.
101 No member of the General Assembly or a spouse of a member of the General Assembly
102 shall receive any income from a student scholarship organization during a taxable year in
103 which such organization receives a contribution for which a tax credit pursuant to Code
104 Section 48-7-29.16 was approved."

105 **SECTION 4.**

106 Said title is further amended in said chapter by revising Code Section 20-2A-5, relating to
107 parent or guardian endorsement of award required, as follows:

108 "20-2A-5.

109 The parent or guardian to whom a scholarship award is granted must restrictively endorse
110 the scholarship award to the private school for deposit into the account of the private school
111 or authorize by electronic signature for the deposit to be made into the account of the
112 private school consistent with regulations issued by the Department of Revenue. The
113 parent or guardian may not designate any entity or individual associated with the
114 participating private school as the parent's attorney in fact to endorse a scholarship award.

115 A participant who fails to comply with this Code section forfeits the scholarship."

116 **SECTION 5.**

117 Said title is further amended in Part 4 of Article 6 of Chapter 2, relating to financing relative
118 to the "Quality Basic Education Act," by revising Code Section 20-2-167.2 as follows:

119 "20-2-167.2.

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

121 (1) 'Out-of-system student' means a student who is enrolled in a local school system and
122 receives virtual instruction from a virtual school within ~~the~~ such local school system, but
123 who resides in another local school system.

124 (2) 'Virtual instruction' means online instruction for grades kindergarten through 12.
125 Such term shall not include virtual instruction received through the Georgia Virtual
126 School established pursuant to Code Section 20-2-319.1 or the clearing-house established
127 pursuant to Code Section 20-2-319.3, or through a state charter school which provides
128 virtual instruction.

129 (3) 'Virtual school' means a school within a local school system which provides virtual
130 instruction.

131 (b) A local school system that provides virtual instruction through a virtual school whose
132 total student enrollment is composed of more than 5 percent out-of-system students shall:

133 (1) Ensure that 90 percent of funds earned pursuant to this article for out-of-system
134 students are expended for costs for virtual instruction for such out-of-system students and
135 shall return any excess funds to the state treasury which are not expended for such
136 purposes; ~~and~~

137 (2) Include in the virtual school and local school system's College and Career Ready
138 Performance Index data academic achievement results for out-of-system students; and

139 (3) Not provide virtual instruction to out-of-system students in the current academic year
140 if the local school system or its virtual school has failed to maintain an average of 65 or
141 above on the College and Career Ready Performance Index over the previous two school
142 years.

143 (c) Each local school system that enrolls any out-of-system students shall compile a
144 complete list of such out-of-system students as of October 1 and March 1 of each year. No
145 local school system shall include any such out-of-system student in any count for purposes
146 related to qualifying for equalization funds pursuant to Code Section 20-2-165.

147 ~~(c)~~(d) This Code section shall not be subject to waiver pursuant to Code Section 20-2-82
148 for a strategic waivers school system, Code Section 20-2-2063.2 for a charter system, Code
149 Section 20-2-2065 for a charter school, or Code Section 20-2-244."

150 **SECTION 6.**

151 Title 48 of the Official Code of Georgia Annotated, relating revenue and taxation, is
152 amended in Chapter 7, relating to income tax imposition, rate, computation, exemptions, and
153 credits, by revising paragraphs (1) and (1.1) of subsection (f) of Code Section 48-7-29.16,
154 relating to tax credits for contributions to student scholarship organizations, as follows:

155 "(f)(1) The aggregate amount of tax credits allowed under this Code section shall not
156 exceed:

157 ~~(A) Fifty-eight million dollars for the year ending on December 31, 2018;~~

158 ~~(B) For 2019 through 2022, \$100 million per year; and~~

159 ~~(C) For 2023 and all subsequent years, \$120 \$150 million per year.~~

160 (1.1) In no event shall the aggregate amount of tax credits allowed under this Code
161 section to all business enterprises for state insurance premium tax liability owed pursuant
162 to Code Section 33-8-4 exceed ~~\$6 million~~ 6 percent of the aggregate amount of tax
163 credits allowed under this Code section for any year as provided in paragraph (1) of this
164 subsection."

165 **SECTION 7.**

166 Said title is further amended in said chapter by revising paragraph (1) of subsection (f) of
167 Code Section 48-7-29.21, relating to tax credits for donations to nonprofit corporations
168 awarding grants to public schools, as follows:

169 "(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code
170 section exceed: \$25 million per calendar year

171 ~~(A) \$5 million for the tax year ending on December 31, 2023; or~~

172 ~~(B) \$15 million for the tax year 2024, and for all subsequent tax years."~~

173 **SECTION 8.**

174 Said title is further amended in Chapter 8, relating to sales and use taxes, by revising
175 paragraph (4) of Code Section 48-8-260, relating to definitions relative to special district
176 mass transportation sales and use tax, as follows:

177 "(4) 'Transportation purposes' means and includes:

178 (A) Roads, bridges, public transit, rails, airports, buses, seaports, including without
179 limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b)
180 of Code Section 48-8-121, and all accompanying infrastructure and services necessary
181 to provide access to ~~these~~ such transportation facilities, including new general
182 obligation debt and other multiyear obligations issued to finance such purposes but
183 excluding purposes of providing free or reduced fares for public transit services;

184 (B) The retirement of previously incurred general obligation debt with respect only to
185 such purposes as identified in subparagraph (A) of this paragraph;

186 (C) A capital outlay project or projects under subparagraph (a)(1)(M) of Code
187 Section 48-8-111, with respect only to such purposes as identified in subparagraph (A)
188 of this paragraph; or

189 (D) Any combination of two or more of the foregoing."

190 **SECTION 9.**

191 Said title is further amended is said chapter by revising subsection (c) of Code Section
192 48-8-269.46, relating to ballot question, expenses of election, resubmission of question, and
193 general obligation debt for special districts within nonattainment areas relative to special
194 districts for transit purposes sales and use tax (Transit SPLOST), by revising subsection (c)
195 as follows:

196 "(c) Where such question is not approved by the voters, the county may resubmit such
197 question ~~from time to time~~ upon compliance with the requirements of this article and after
198 the passage of eight years from the date the special election was previously held."

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SECTION 10.

200 (a) Except as provide in subsection (b) of this section, this Act shall become effective on
201 July 1, 2026, and shall be applicable to all taxable years beginning on or after January 1,
202 2027.

203 (b) Section 5 of this Act shall become effective on July 1, 2026,

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SECTION 11.

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