The Senate Committee on Finance offered the following substitute to HB 504:

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 31-8-9.1 of the Official Code of Georgia Annotated, relating to eligibility to receive tax credits, so as to revise a definition; to amend Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits for contributions to rural hospital organizations, so as to expand the definition of "rural hospital organizations"; to revise the manner of preapproving and allocating certain contributions; to extend the sunset provision; to amend Code Section 48-7-29.21 of the Official Code of Georgia Annotated, relating to tax credits for qualified education donations for the purpose of awarding grants to public schools, so as to provide for a sunset date; to amend an Act relating to education and to revenue and taxation to authorize the Public Education Innovation Fund Foundation to receive private donations to be used for grants to public schools; to provide for grant criteria; to provide for an income tax credit for qualified education donations; to provide for conditions and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to such donations, approved April 27, 2017 (Ga L. 2017, p. 100), so as to repeal a sunset provision; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Code Section 31-8-9.1 of the Official Code of Georgia Annotated, relating to eligibility to receive tax credits, is amended by revising paragraph (3) of subsection (a) as follows:

"(3) 'Rural hospital organization' means an acute care hospital or rural freestanding emergency department licensed by the department pursuant to Article 1 of Chapter 7 of this title that:

(A) Has its primary campus ~~Provides inpatient hospital services at a facility~~ located in a rural county or is a critical access hospital;

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

(C) Provides health care services to indigent patients;

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

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

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

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

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

SECTION 1-2.

Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits for contributions to rural hospital organizations, is amended by revising subsections (e) and (k) as follows:

″(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code section exceed $75 million per taxable year.

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

(B) In the event an individual or corporate donor desires to make a contribution to an individual rural hospital organization that has received the maximum amount of contributions for that ~~taxable~~ year, the Department of Community Health shall provide the individual or corporate donor with a list, ranked in order of financial need, as determined by the Department of Community Health, of rural hospital organizations still eligible to receive contributions for the ~~taxable~~ year.

<u>(C) In the event an individual or corporate donor desires to make a contribution to an individual rural hospital organization that would cause such rural hospital organization to exceed its maximum amount of contributions for that year, the commissioner shall</u>

not deny such desired contribution, but shall approve the proportional amount of the desired contribution up to the rural hospital organization's maximum allowed amount; any remainder shall be attributed as provided for in subparagraph (D) of this paragraph.

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

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

(3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital organization shall notify a potential donor of the requirements of this Code section. Before making a contribution to a rural hospital organization, the taxpayer shall electronically notify the department, in a manner specified by the department, of the total amount of contribution that the taxpayer intends to make to the rural hospital organization. The commissioner shall preapprove or deny the requested amount or a portion of such amount, if applicable pursuant to subparagraph (C) of paragraph (2) of this subsection, within 30 days after receiving the request from the taxpayer and shall provide written notice to the taxpayer and rural hospital organization of such preapproval or denial which shall not require any signed release or notarized approval by the taxpayer. ~~In order to receive a tax credit under this Code section, the taxpayer shall make the~~

~~contribution to the rural hospital organization within 180 days after receiving notice from the department that the requested amount was preapproved.~~ In order to receive a tax credit under this Code section, a taxpayer preapproved by the department on or before September 30 shall make the contribution to the rural hospital organization within 180 days after receiving notice of preapproval from the department, but not later than October 31. A taxpayer preapproved by the department after September 30 shall make the contribution to the rural hospital organization on or before December 31. If the taxpayer does not comply with this paragraph, the commissioner shall not include this preapproved contribution amount when calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

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

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

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

(5) Notwithstanding any laws to the contrary, the department shall not take any adverse action against donors to rural hospital organizations if the commissioner preapproved a donation for a tax credit prior to the date the rural hospital organization is removed from the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such

donations shall remain as preapproved tax credits subject only to the donor's compliance with paragraph (3) of this subsection.″

″(k) This Code section shall stand automatically repealed on December 31, ~~2024~~ 2026.″

PART II

SECTION 2-1.

Code Section 48-7-29.21 of the Official Code of Georgia Annotated, relating to tax credits for qualified education donations for the purpose of awarding grants to public schools, is amended by revising paragraph (1) of subsection (f) and by adding a new subsection to read as follows:

″(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code section exceed $5 million per tax year.″

″(j) This Code section shall stand repealed and reserved on December 31, 2026.″

SECTION 2-2.

An Act relating to education and to revenue and taxation to authorize the Public Education Innovation Fund Foundation to receive private donations to be used for grants to public schools; to provide for grant criteria; to provide for an income tax credit for qualified education donations; to provide for conditions and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to such donations, approved April 27, 2017 (Ga L. 2017, p. 100), is amended by repealing Section 3.

PART III

SECTION 3-1.

(a) This Act shall become effective on July 1, 2023; provided, however, that Part I and Section 2-1 of this Act shall become effective on January 1, 2024.

(b) This Act shall be applicable to taxable years beginning on or after January 1, 2024.

SECTION 3-2.

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