

House Bill 136 (COMMITTEE SUBSTITUTE)

By: Representatives Newton of the 127th, Blackmon of the 146th, Rhodes of the 124th, Cox of the 28th, Prince of the 132nd, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to expand the tax credit for contributions to foster child support
3 organizations; to expand the types of organizations that qualify as foster child support
4 organizations; to allow such organizations to include as qualified expenditures wraparound
5 and mentorship services for justice involved youth; to expand the wraparound services that
6 are qualified expenditures; to create a new tax credit for insurance companies against
7 insurance premium tax liability; to provide for conditions and limitations; to provide for
8 reporting and public website requirements; to provide for certifying and decertifying
9 qualified organizations; to provide that such credit shall not be used against succeeding years'
10 tax liability; to provide for definitions; to provide for information sharing and limitations
11 thereof; to provide for related matters; to provide for an effective date and applicability; to
12 repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 136 (SUB)

SECTION 1.

14

15 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
16 is amended by revising Code Section 48-7-29.24, relating to tax credits for contributions to
17 foster child 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 aged 16 through 25 who have not been adopted or reunited with families were in foster
25 care for at least six months after reaching age 14.

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

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

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

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

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

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

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

40 (i) Operating an aging-out program that primarily supports aging foster children or
 41 operating as or supporting a Georgia licensed child-placing agency or child-caring
 42 institution; or

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

45 (4.1) 'Justice involved youth' means youth aged 18 through 25 who:

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

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

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

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

57 (6) 'Qualified expenditures' means expenditures made by a qualified organization for the
 58 following purposes; provided, however, that such term shall not include any expenditures
 59 for which the qualified organization has received or is eligible to receive reimbursement
 60 from the department:

61 (A) The costs associated with tuition waivers granted pursuant to Code Section
 62 20-3-660;

63 (B) Wraparound services for individuals aging foster children and justice involved
 64 youth who are:

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

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

68 (3) Enrolled in a recognized vocational school; or

69 (4) Participating in a registered apprenticeship program, provided that the participant
 70 and the organization for which the participant is an apprentice document that the
 71 participant is compliant with the rules of the apprenticeship program.

72 (C) Mentorship services provided to aging foster children and justice involved youth;
 73 provided, however, that such expenditures shall not include:

74 (1) Compensation for a single mentor which exceeds no mentor shall be compensated
 75 in excess of \$100.00 per month for an aging foster child or justice involved youth or
 76 \$500.00 \$1,200.00 per year for any aging foster child or justice involved youth; or

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

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

81 (8) 'Wraparound services' means services provided directly to aging foster children or
 82 justice involved youth to support their education through high school completion,
 83 vocational, and postsecondary education services, housing services, vocation services,
 84 medical services, counseling services, mentorship services, nutrition services,
 85 transportation services, or daily living essentials and clothing, and up to \$150.00 \$200.00
 86 per month in direct cash payments for use on personal necessities.

87 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
 88 exceed ~~\$20~~ \$30 million per calendar year.

89 (2) Subject to the aggregate limit provided in paragraph (1) of this subsection and the
 90 limitations of ~~subsection~~ subsections (b.1), (b.2), and (k) of this Code section, each:

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

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

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

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

105 ~~(D)(iv)~~ In the case of a A corporation or other entity not provided for in
 106 subparagraphs (A) divisions (i) through (C) (iii) of this paragraph shall be allowed a
 107 credit against the tax imposed by this chapter, for qualified contributions in an amount
 108 not to exceed ~~subparagraph,~~ the actual amount of qualified contributions made; and
 109 (B) Business enterprise shall be allowed a credit against the tax imposed by Code
 110 Section 33-8-4 in an amount equal to its qualified contributions.

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

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

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

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

119 (4) In the case of a corporation or other entity not provided for in paragraphs (1) through
120 (3) of this subsection, ~~to 30 percent of such entity's income tax liability, or if such entity~~
121 is a business enterprise, 30 percent of such entity's tax liability imposed by Code Section
122 33-8-4.

123 (b.2)(1) For the period beginning on July 1 and ending on December 31 of each year, to
124 the extent that the aggregate amount of tax credits authorized by subsection (b) of this
125 Code section has not been reached, the commissioner shall preapprove, deny, or prorate
126 additional requested amounts on a first come, first served basis and shall provide notice
127 to such taxpayer and the qualified organization of such preapproval, denial, or proration.

128 (2) A taxpayer that is preapproved for the tax credit allowed pursuant to this Code
129 section during the period provided for in paragraph (1) of this subsection shall only be
130 allowed such credit in an amount that shall not exceed 95 percent of the amount provided
131 for such taxpayer in paragraph (2) of subsection (b) of this Code section.

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

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

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

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

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

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

144 (d)(1) The division shall establish and maintain a web based application process for the
145 purpose of certifying foster child support organizations as qualified organizations. At a

146 minimum, such application created by the division shall include an agreement submitted
147 by the applicant to fully comply with the terms and conditions of this Code section.

148 (2) ~~The~~ (A) Subject to the requirements of this subsection, the division shall certify any
149 valid foster child support organization as a qualified organization upon successful
150 completion of such application process and shall decertify an organization that fails to
151 maintain the requirements to be a qualified organization or that the division determines
152 to have violated any other law.

153 (B) For any foster child support organization that is not a Georgia licensed
154 child-placing agency or child-caring institution or that meets the definition of such term
155 only as set forth in division (a)(4)(C)(ii) of this Code section to be certified as a
156 qualified organization, such organization shall provide documentation demonstrating
157 that for a period of at least two calendar years prior to the submission of its application,
158 the organization has operated an aging-out program and, during that period, has
159 provided services to at least 50 aging foster children or justice involved youth.

160 (C) After receiving certification pursuant to this subsection, each qualified organization
161 other than a Georgia licensed child-placing agency or child-caring institution shall
162 annually demonstrate to the division's satisfaction that it continues to maintain the
163 requirements to be a qualified organization, and shall annually submit to the division
164 a copy of such organization's most recent annual audit.

165 (3) The division shall certify any foster child support organization operating as a Georgia
166 licensed child-placing agency or child-caring institution as a qualified organization within
167 ten days of receipt of a written request or application.

168 (4) ~~The division shall accept a first round of applications for certification as qualified~~
169 ~~organizations by October 1, 2022, and shall certify and notify such applicants of the~~
170 ~~division's decision on or before November 30, 2022. Thereafter the division shall~~
171 ~~establish a process for rolling applications and certifications~~ consistent with the
172 requirements of this Code section.

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

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

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

191 (f)(1) Each qualified organization shall issue to each contributor a letter of confirmation
192 of contribution, which shall include the taxpayer's or business enterprise's name, address,
193 tax identification number, the amount of the qualified contribution, the date of the
194 qualified contribution, and the total amount of the credit allowed to the taxpayer or
195 business enterprise.

196 (2)(A) In order for a taxpayer or business enterprise to claim the tax credit allowed
197 under this Code section, all such applicable letters as provided for in paragraph (1) of
198 this subsection shall be attached to the taxpayer's tax return or a business enterprise's
199 tax return provided for in Code Section 33-8-6.

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

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

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

213 (g)(1) Each qualified organization shall annually submit to the department no later than
214 ~~May 15~~ July 15 of each year:

215 (A) A complete copy of its IRS Form 990 including applicable attachments, or for any
216 qualified organization that is not required by federal law to file an IRS Form 990, such
217 organization shall submit to the commissioner equivalent information on a form
218 prescribed by the commissioner; provided, however, that, if the organization's IRS
219 Form 990 is not prepared by the filing deadline, the organization shall provide such
220 form at the same time it submits such form to the Internal Revenue Service; and

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

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

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

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

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

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

233 (v) An accounting of the funds withheld from qualified contributions demonstrating
234 that no more than 10 percent of such funds were withheld from qualified
235 expenditures, as required by subparagraph (j)(1)(A) of this Code section.

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

241 (h) By April 1 of each year, each qualified organization shall ~~publicly~~ post on its public
242 website in a prominent place:

243 (1) A a copy of its prior year's annual budget containing the total amount of funds
244 received from all sources relative to the amount of qualified contributions it received and
245 the total amount and a description of how such contributions were utilized; and

246 (2) A certification, signed by the chief executive officer of the qualified organization,
247 which substantially complies with the following statement:

248 I hereby certify that:

249 (A) The organization has materially complied with the requirements of
250 subparagraph (j)(1)(A) of O.C.G.A. Section 48-7-29.24 in that no more than 20 percent
251 of qualified contributions received by [the qualified organization] were retained by,
252 withheld by, or otherwise paid to the organization; and

253 (B) The description of how [the qualified organization] utilized the qualified
254 contributions is true and correct.'

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

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

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

267 (j)(1)(A) Each qualified organization shall use at least 80 percent of the funds received
268 by it from qualified contributions to make qualified expenditures. Each qualified
269 organization shall maintain accurate and current records of all expenditures of such
270 funds and provide such records to the commissioner upon his or her request. In no
271 event shall a qualified organization retain for its own use or apply to its overhead or
272 administrative expenses more than 10 percent of the funds received pursuant to this
273 Code section.

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

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

284 (3) Upon failure to correct all deficiencies within 90 days, the department shall revoke
285 the foster child support organization's status as a qualified organization and such entity
286 shall be immediately removed from the department's list of organizations. All
287 applications for preapproval of tax credits for contributions to such foster child support
288 organization under this Code section made on or after the date of such removal shall be
289 rejected.

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

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

298 (2) In no event shall the total amount of the tax credit under this Code section for a
299 taxable year exceed the taxpayer's income tax liability or the business enterprise's state
300 tax liability owed pursuant to Code Section 33-8-4. ~~Any~~ No unused tax credit shall be
301 allowed the taxpayer or business enterprise against ~~the~~ succeeding ~~three~~ years' tax
302 liability. No such credit shall be allowed the taxpayer or business enterprise against prior
303 years' tax liability.

304 (l) The chairperson of the House Appropriations Committee and the chairperson of the
305 Senate Committee on Appropriations shall have the authority to request an audit
306 concerning this Code section as a whole or of any one or more qualified organizations. The

307 commissioner, the state auditor, each qualified organization, each aging-out program, and
308 the director of the division shall cooperate to the full extent necessary to conduct such
309 audits.

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

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

315 **SECTION 2.**

316 Said chapter is further amended by revising Code Section 48-7-60, relating to confidentiality
317 of tax information, exceptions, authorized inspection by certain officials, furnishing
318 information to local tax authorities, furnishing information to nonofficials, conditions, and
319 effect of Code section, by adding a new subsection to read as follows:

320 "(d.1) The commissioner shall be authorized in his or her sole discretion to share
321 information necessary to efficiently administer and enforce the provisions of this chapter
322 for the purpose of tax credit administration when another state agency has statutory
323 authority to administer such tax credits. Any confidential information furnished pursuant
324 to this Code section shall retain its character as confidential and privileged information.
325 Any person who divulges confidential information obtained pursuant to this Code section
326 shall be subject to the same penalties as provided under Code Section 48-7-61 for unlawful
327 divulgence of confidential taxpayer information."

328 **SECTION 3.**

329 This Act shall become effective on July 1, 2025, and shall be applicable to all taxable years
330 beginning on or after January 1, 2026.

331

SECTION 4.

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