

The House Committee on Ways and Means offers the following substitute to HB 328:

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 income tax imposition, rate, computation, exemptions, and credits, so as to revise
3 a tax credit for certain contributions to student scholarship organizations; to increase the
4 annual aggregate limit; to decrease the amount allowed for insurance companies; to provide
5 that such credits shall not carry forward; to provide for related matters; to provide for an
6 effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
10 income tax imposition, rate, computation, exemptions, and credits, is amended in Code
11 Section 48-7-29.16, relating to tax credits for contributions to student scholarship
12 organizations, by revising subsections (c.1), (e), and (f) as follows:

13 "(c.1) A business enterprise shall be allowed a credit against the tax imposed by Code
14 Section 33-8-4 in an amount equal to its qualified education expenses or ~~75~~ 30 percent of
15 the business enterprise's state insurance premium tax liability owed pursuant to Code

16 Section 33-8-4, whichever is less; ~~provided, however, that the amount of such credit shall~~
17 ~~not exceed \$1 million."~~

18 "(e) In no event shall the total amount of the tax credit allowed to any taxpayer or business
19 enterprise under this Code section for a taxable year exceed such taxpayer's income tax
20 liability or such business enterprise's state insurance premium tax liability owed pursuant
21 to Code Section 33-8-4; ~~provided that any unused tax credit shall be allowed the taxpayer~~
22 ~~or business enterprise against up to its succeeding three years' tax liability. No unused tax~~
23 ~~credit shall be allowed the taxpayer or business enterprise against succeeding years' tax~~
24 ~~liability.~~ No such credit shall be allowed the taxpayer or business enterprise against prior
25 years' tax liability.

26 (f)(1) The aggregate amount of tax credits allowed under this Code section shall not
27 exceed:

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

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

30 (C) ~~For 2023 and all subsequent years, \$120~~ \$140 million per year.

31 ~~(1.1) In no event shall the aggregate amount of tax credits allowed under this Code~~
32 ~~section to all business enterprises for state insurance premium tax liability owed pursuant~~
33 ~~to Code Section 33-8-4 exceed \$6 million for any year.~~

34 (2) The commissioner shall allow the tax credits on a first come, first served basis.

35 (3) For the purposes of paragraph (1) of this subsection, a student scholarship
36 organization shall notify a potential donor of the requirements of this Code section.
37 Before making a contribution to a student scholarship organization, the taxpayer or
38 business enterprise shall electronically notify the department, in a manner specified by
39 the department, of the total amount of contributions that the taxpayer or business
40 enterprise intends to make to the student scholarship organization. The commissioner
41 shall preapprove, deny, or prorate the requested amount within 30 days after receiving
42 the request from the taxpayer or business enterprise and shall provide notice to the

43 taxpayer or business enterprise and the student scholarship organization of such
44 preapproval, denial, or proration which shall not require any signed release or notarized
45 approval by the taxpayer or business enterprise. In order to receive a tax credit under this
46 Code section, the taxpayer or business enterprise shall make the contribution to the
47 student scholarship organization within 60 days after receiving notice from the
48 department that the requested amount was preapproved. If the taxpayer or business
49 enterprise does not comply with this paragraph, the commissioner shall not include this
50 preapproved contribution amount when calculating the limit prescribed in paragraph (1)
51 of this subsection ~~or the additional limitation specific to business enterprises prescribed~~
52 ~~in paragraph (1.1) of this subsection.~~ The department shall establish a web based
53 donation approval process to implement this subsection.

54 (4) Preapproval of contributions by the commissioner shall be based ~~solo~~ly on the
55 availability of tax credits subject to the aggregate total limit established under paragraph
56 (1) of this subsection ~~or the additional limitation specific to business enterprises~~
57 ~~prescribed in paragraph (1.1) of this subsection.~~ The department shall maintain an
58 ongoing, current list on its website of the amount of tax credits available under this Code
59 section.

60 (5)(A) For the period beginning on July 1 and ending on December 31 of each year,
61 to the extent that the aggregate amount of tax credits authorized by subsection (b) of
62 this Code section has not been reached, the commissioner shall preapprove, deny, or
63 prorate additional requested amounts on a first come, first served basis and shall
64 provide notice to such taxpayer and the qualified scholarship organization of such
65 preapproval, denial, or proration.

66 (B) A taxpayer that is preapproved for the tax credit allowed pursuant to this Code
67 section during the period provided for in subparagraph (A) of this paragraph shall only
68 be allowed such credit in an amount that shall not exceed 95 percent of the amount
69 otherwise allowed pursuant to this Code section.

70 (6) Notwithstanding any laws to the contrary, the department shall not take any adverse
71 action against donors to student scholarship organizations if the commissioner
72 preapproved a donation for a tax credit prior to the date the student scholarship
73 organization is removed from the Department of Education list pursuant to Code
74 Section 20-2A-7, and all such donations shall remain as preapproved tax credits subject
75 only to the donor's compliance with paragraph (3) of this subsection.

76 ~~(6)~~(7) In addition to the reporting requirements in Code Section 20-2A-3, each student
77 scholarship organization shall file an annual report with the department showing any fees
78 or assessments retained by the student scholarship organization during the calendar year."

79 **SECTION 2.**

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

82 **SECTION 3.**

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