

Senate Bill 446

By: Senators Dixon of the 45th, Hickman of the 4th, Ginn of the 47th, Gooch of the 51st,
Tillery of the 19th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to
2 student scholarship organizations, so as to provide for the State of Georgia to participate in
3 the federal tax credit program for contributions of individuals to scholarship granting
4 organizations; to provide for legislative intent; to establish requirements for scholarship
5 granting organizations; to provide for certification of compliance with such requirements;
6 to prohibit certain entities from being scholarship granting organizations; to designate the
7 state revenue commissioner to make elections on behalf of the State of Georgia with respect
8 to federal tax benefits related to contributions of individuals to scholarship granting
9 organizations; to require the state revenue commissioner to provide notice to the United
10 States Secretary of the Treasury that the State of Georgia elects to participate in such federal
11 tax credit program and to include in such notice a list of qualifying scholarship granting
12 organizations; to provide for rules and guidelines; to provide for definitions; to make
13 conforming changes; to amend Code Section 48-7-29.16 of the Official Code of Georgia
14 Annotated, relating to tax credits for contributions to student scholarship organizations, so
15 as to make a conforming change; to provide for related matters; to provide for an effective
16 date and applicability; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

19 The General Assembly finds and declares that:

20 (1) The state should continue and expand its support of parental choice in primary and
21 secondary education and provide a variety of pathways for families to meet the unique
22 educational needs of their children, including through participation in tax credit programs
23 that support student scholarships.

24 (2) It is the policy of the State of Georgia to permanently participate in the federal tax
25 credit scholarship program established in 2025 under Section 70411 of Public Law No.
26 119-21 and provided for in 26 U.S.C. Section 25F.

27 (3) Georgia's initial election to participate in the federal tax credit scholarship program was
28 made in January 2026, by Governor Brian P. Kemp's submission of notice of advance
29 election to participate under 26 U.S.C. Section 25F for 2027.

30 (4) Inasmuch as an election to participate in the federal tax credit scholarship program
31 shall be made annually in order for Georgia taxpayers to earn a federal tax credit for
32 qualified contributions to scholarship granting organizations, the General Assembly finds
33 that it is desirable to designate the Department of Revenue as the agency responsible for
34 managing Georgia's participation in the federal tax credit scholarship program and that the
35 state revenue commissioner be charged with maintaining Georgia's eligibility in future
36 years.

37

SECTION 2.

38 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
39 scholarship organizations, is amended by replacing "chapter" with "article" wherever the
40 former term appears in:

41 (1) Code Section 20-2A-1, relating to definitions;

42 (2) Code Section 20-2A-2, relating to requirements for student scholarship organizations;

- 43 (3) Code Section 20-2A-2.1, relating to entities prohibited from being student scholarship
 44 organizations; and
 45 (4) Code Section 20-2A-7, relating to penalties for failure to comply with requirements of
 46 chapter and violations.

47 **SECTION 3.**

48 Said chapter is further amended by designating Code Sections 20-2A-1 through 20-2A-7 as
 49 Article 1 and by adding a new article to read as follows:

50 "ARTICLE 2

51 20-2A-20.

52 As used in this article, the term:

53 (1) 'Area median gross income' means the measure of household income for a specific
 54 geographic area adjusted for family size, determined by the United States Department of
 55 Housing and Urban Development, as such term is used for purposes of 26 U.S.C.
 56 Section 42.

57 (2) 'Commissioner' means the state revenue commissioner.

58 (3) 'Department' means the Department of Revenue.

59 (4) 'Eligible student' means an individual who:

60 (A) Is eligible to enroll in an elementary or secondary school in this state;

61 (B) Is a member of a household with an income which, for the calendar year prior to
 62 the date of the application for a scholarship, is not greater than 300 percent of the
 63 applicable area median gross income; and

64 (C) Meets the student eligibility requirements provided for in 26 U.S.C. Section 25F
 65 and its implementing regulations.

66 (5) 'Qualified contribution' means a charitable contribution of cash to a scholarship
67 granting organization that uses such charitable contribution to fund scholarships.

68 (6) 'Qualified elementary or secondary education expense' means any expense allowable
69 under rules promulgated by the commissioner in accordance with this article and that are
70 consistent with the rules of 26 U.S.C. Section 530 applicable to determining qualified
71 elementary or secondary education expenses.

72 (7) 'Qualified school or program' means a nonpublic elementary or secondary school that
73 is located in this state, satisfies the requirements prescribed by law for private schools in
74 this state, adheres to the provisions of the federal Civil Rights Act of 1964, and is
75 accredited or in the process of becoming accredited by one or more entities listed in
76 subparagraph (A) of paragraph (6) of Code Section 20-3-519.

77 (8) 'Scholarship' means a scholarship or tuition grant provided by a scholarship granting
78 organization to an eligible student to attend a qualified school or program as provided for
79 in this article.

80 (9) 'Scholarship granting organization' means an organization that:

81 (A) Is not a private foundation;

82 (B) Is described in 26 U.S.C. Section 501(c)(3);

83 (C) Is exempt from income taxation under 26 U.S.C. Section 501(a);

84 (D) Meets the requirements of Code Section 20-2A-21; and

85 (E) Is included on the list submitted by the commissioner as provided for in Code
86 Section 20-2A-23.

87 20-2A-21.

88 (a) Each scholarship granting organization shall:

89 (1) Provide scholarships to ten or more eligible students who do not all attend the same
90 qualified school or program;

- 91 (2) Obligate not less than 90 percent of the income of the scholarship granting
92 organization on scholarships;
- 93 (3) Verify the annual household income and family size of students who apply for
94 scholarships to ensure such students meet the requirement of subparagraph (B) of
95 paragraph (4) of Code Section 20-2A-20;
- 96 (4) Provide scholarships to eligible students with:
- 97 (A) First priority for eligible students awarded a scholarship the previous school year,
98 and
- 99 (B) Second priority for eligible students who have a sibling who was awarded a
100 scholarship from such organization;
- 101 (5) Prevent the co-mingling of qualified contributions with other amounts by maintaining
102 separate accounts for scholarship funds and operating funds. Until obligated income is
103 designated for specific student recipients, the scholarship granting organization shall hold
104 the obligated income in a bank or investment account owned by the scholarship granting
105 organization and over which it has complete control; provided, however, that interest
106 earned on deposits and investments of scholarship funds shall be included in the
107 calculation of the minimum obligations provided for in paragraph (2) of this subsection;
108 and
- 109 (6) Comply with rules promulgated by the commissioner in accordance with this article.
- 110 (b) No scholarship granting organization shall:
- 111 (1) Award a scholarship to a student who is a member of a household with income that
112 exceeds the amount established in subparagraph (B) of paragraph (4) of Code
113 Section 20-2A-20;
- 114 (2) Provide scholarships for any expenses other than qualified elementary or secondary
115 education expenses;
- 116 (3) Earmark or set aside contributions for scholarships on behalf of any particular
117 student; or

118 (4) Award a scholarship to any disqualified person as determined by the commissioner
119 according to rules promulgated by the commissioner in accordance with this article which
120 are consistent with the rules of 26 U.S.C. Section 4946 applicable to determining
121 disqualified persons.

122 (c) By June 1, 2026, and each June 1 thereafter, each scholarship granting organization
123 shall submit to the department, in a form and manner prescribed by the commissioner,
124 certification that such organization is in compliance with each of the requirements in
125 subsections (a) and (b) of this Code section.

126 20-2A-22.

127 No entity which operates, owns, is affiliated with, or is a subsidiary of an association,
128 organization, or other entity that provides accreditation of elementary or secondary schools
129 shall be eligible to be a scholarship granting organization pursuant to this article.

130 20-2A-23.

131 (a) The commissioner is designated to make elections on behalf of the State of Georgia
132 with respect to federal tax benefits related to contributions of individuals to scholarship
133 granting organizations as provided for in this article.

134 (b) By October 1, 2027, and each October 1 thereafter, the commissioner shall transmit a
135 notice to the United States Secretary of the Treasury opting into the federal tax credit for
136 contributions of individuals to scholarship granting organizations as required under 26
137 U.S.C. Section 25F. Such notice shall include a list of the scholarship organizations
138 located in this state that meet the requirements for a scholarship granting organization
139 under 26 U.S.C. Section 25F(c)(5).

140 (c)(1) By September 1, 2026, and each September 1 thereafter, the commissioner shall
141 notify each scholarship granting organization of its compliance status and whether such

142 scholarship granting organization will be included on the official list submitted to the
143 United States Secretary of the Treasury as provided in subsection (b) of this Code section.

144 (2) After a scholarship granting organization is determined to be compliant with the
145 requirements of Code Section 20-2A-21, such scholarship granting organization shall be
146 included on the list submitted to the United States Secretary of the Treasury as provided
147 in subsection (b) of this Code section.

148 (3) The commissioner may direct the department to perform random audits to ensure that
149 a scholarship granting organization remains compliant with requirements of Code
150 Section 20-2A-21.

151 (4) If the commissioner determines that a scholarship granting organization is not
152 compliant with requirements of Code Section 20-2A-21, the commissioner may remove
153 such organization from the list submitted to the United States Secretary of the Treasury.

154 (d)(1) The commissioner shall promulgate rules necessary and appropriate to implement
155 this article consistent with the requirements of 26 U.S.C. Section 25F. The commissioner
156 shall not promulgate any rule that is inconsistent with the requirements of 26 U.S.C.
157 Section 25F.

158 (2) By August 1, 2026, the department shall issue guidelines for the implementation of
159 this article. Such guidelines shall be published on the department's website."

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SECTION 4.

161 Code Section 48-7-29.16 of the Official Code of Georgia Annotated, relating to tax credits
162 for contributions to student scholarship organizations, is amended by revising paragraph (3)
163 of subsection (a) as follows:

164 "(3) 'Qualified education expense' means the expenditure of funds by the taxpayer or
165 business enterprise during the tax year for which a credit under this Code section is
166 claimed and allowed to a student scholarship organization operating pursuant to Article 1

167 of Chapter 2A of Title 20 which are used for tuition and fees for a qualified school or
168 program."

169 **SECTION 5.**

170 This Act shall become effective upon its approval by the Governor or upon its becoming law
171 without such approval and shall apply to all taxable years beginning on or after January 1,
172 2026.

173 **SECTION 6.**

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