

The Senate Committee on Finance offered the following substitute to HB 328:

**MOOT**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2A of Title 20 and Chapter 7 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to student scholarship organizations and income taxes, respectively, so  
3 as to revise provisions for student eligibility and maximum scholarship amounts; to provide  
4 for military students and students with Individualized Education Programs (IEPs), Section  
5 504 Plans, or other designated disabilities; to provide for such designation; to prohibit  
6 members of the General Assembly and their spouses from receiving income from student  
7 scholarship organizations that receive certain contributions; to provide for an alternative  
8 method for the deposit of a scholarship award; to increase the annual aggregate limit of tax  
9 credits allowed for certain contributions to student scholarship organizations; to increase the  
10 annual aggregate amount of such tax credits allowed for business enterprises for state  
11 insurance premium tax liability; to increase the annual aggregate limit for tax credits  
12 available for qualified education donations; to provide a sunset date; to provide for related  
13 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for  
14 other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

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

41 **SECTION 2.**

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

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

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

91 **SECTION 3.**

92 Said chapter is further amended by adding a new Code section to read as follows:

93 "20-2A-2.2.  
94 No member of the General Assembly or a spouse of a member of the General Assembly  
95 shall receive any income from a student scholarship organization during a taxable year in  
96 which such organization receives a contribution for which a tax credit pursuant to Code  
97 Section 48-7-29.16 was approved."

98 **SECTION 4.**

99 Said chapter is further amended by revising Code Section 20-2A-5, relating to parent or  
100 guardian endorsement of award required, as follows:

101 "20-2A-5.

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

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

109 **SECTION 5.**

110 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax  
111 imposition, rate, computation, exemptions, and credits, is amended in Code Section  
112 48-7-29.16, relating to tax credits for contributions to student scholarship organizations, by  
113 revising paragraphs (1) and (1.1) of subsection (f) and adding a new subsection to read as  
114 follows:

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

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

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

119 ~~(C) For 2023 and all subsequent years, \$120 \$225 million per year.~~

120 (1.1) In no event shall the aggregate amount of tax credits allowed under this Code  
121 section to all business enterprises for state insurance premium tax liability owed pursuant  
122 to Code Section 33-8-4 exceed ~~\$6 million~~ 6 percent of the aggregate amount of tax  
123 credits allowed under this Code section for any year as provided in paragraph (1) of this  
124 subsection."

125 "(j) This Code section shall stand repealed and reserved on January 1, 2032."

126 **SECTION 6.**

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

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

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

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

134 **SECTION 7.**

135 This Act shall become effective on July 1, 2026, and shall be applicable to all taxable years  
136 beginning on or after January 1, 2027.

137 **SECTION 8.**

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