

ADOPTED

Representative Efstration of the 104th offers the following amendment:

1 *Amend the Senate substitute to HB 328 (LC 59 0427S) by replacing lines 1 through the end*
2 *with the following:*

3 To amend Titles 20 and 48 of the Official Code of Georgia Annotated, relating to education
4 and revenue and taxation, respectively, so as to revise provisions for student eligibility and
5 maximum scholarship amounts; to provide for military students and students with
6 Individualized Education Programs (IEPs), Section 504 Plans, or other designated
7 disabilities; to provide for such designation; to prohibit members of the General Assembly
8 and their spouses from receiving income from student scholarship organizations that receive
9 certain contributions; to provide for an alternative method for the deposit of a scholarship
10 award; to prohibit virtual instruction to out-of-system students if the local school system has
11 a College and Career Ready Performance Index average below 65 for the previous two
12 school years; to prohibit out-of-system students from being counted toward equalization
13 funds received by a local school system; to require local school systems that enroll
14 out-of-system students to compile a list of such out-of-system students; to increase the annual
15 aggregate limit of tax credits allowed for certain contributions to student scholarship
16 organizations; to increase the annual aggregate amount of such tax credits allowed for
17 business enterprises for state insurance premium tax liability; to increase the annual
18 aggregate limit for tax credits available for qualified education donations; to prohibit the use
19 of special district mass transportation sales and use taxes for the provision of free or reduced
20 fares for public transit services; to provide for time limits upon the recalling of an election
21 for approval of special districts for transit purposes sales and use tax (Transit SPLOST)
22 within nonattainment areas upon failure to approve; to provide for related matters; to provide
23 for effective dates and applicability; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **SECTION 1.**

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

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

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SECTION 2.

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

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

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

100 SECTION 3.

101 Said title is further amended in said chapter by adding a new Code section to read as follows:

102 "20-2A-2.2.
 103 No member of the General Assembly or a spouse of a member of the General Assembly
 104 shall receive any income from a student scholarship organization during a taxable year in
 105 which such organization receives a contribution for which a tax credit pursuant to Code
 106 Section 48-7-29.16 was approved."

107 **SECTION 4.**

108 Said title is further amended in said chapter by revising Code Section 20-2A-5, relating to
 109 parent or guardian endorsement of award required, as follows:

110 "20-2A-5.

111 The parent or guardian to whom a scholarship award is granted must restrictively endorse
 112 the scholarship award to the private school for deposit into the account of the private school
 113 or authorize by electronic signature for the deposit to be made into the account of the
 114 private school consistent with regulations issued by the Department of Revenue. The
 115 parent or guardian may not designate any entity or individual associated with the
 116 participating private school as the parent's attorney in fact to endorse a scholarship award.
 117 A participant who fails to comply with this Code section forfeits the scholarship."

118 **SECTION 5.**

119 Said title is further amended in Part 4 of Article 6 of Chapter 2, relating to financing relative
 120 to the "Quality Basic Education Act," by revising Code Section 20-2-167.2 as follows:

121 "20-2-167.2.

122 (a) As used in this Code section, the term:

123 (1) 'Out-of-system student' means a student who is enrolled in a local school system and
 124 receives virtual instruction from a virtual school within ~~the~~ such local school system, but
 125 who resides in another local school system.

126 (2) 'Virtual instruction' means online instruction for grades kindergarten through 12.
127 Such term shall not include virtual instruction received through the Georgia Virtual
128 School established pursuant to Code Section 20-2-319.1 or the clearing-house established
129 pursuant to Code Section 20-2-319.3, or through a state charter school which provides
130 virtual instruction.

131 (3) 'Virtual school' means a school within a local school system which provides virtual
132 instruction.

133 (b) A local school system that provides virtual instruction through a virtual school whose
134 total student enrollment is composed of more than 5 percent out-of-system students shall:

135 (1) Ensure that 90 percent of funds earned pursuant to this article for out-of-system
136 students are expended for costs for virtual instruction for such out-of-system students and
137 shall return any excess funds to the state treasury which are not expended for such
138 purposes; ~~and~~

139 (2) Include in the virtual school and local school system's College and Career Ready
140 Performance Index data academic achievement results for out-of-system students; and

141 (3) Not provide virtual instruction to out-of-system students in the current academic year
142 if the local school system or its virtual school has failed to maintain an average of 65 or
143 above on the College and Career Ready Performance Index over the previous two school
144 years.

145 (c) Each local school system that enrolls any out-of-system students shall compile a
146 complete list of such out-of-system students as of October 1 and March 1 of each year. No
147 local school system shall include any such out-of-system student in any count for purposes
148 related to qualifying for equalization funds pursuant to Code Section 20-2-165.

149 ~~(c)~~(d) This Code section shall not be subject to waiver pursuant to Code Section 20-2-82
150 for a strategic waivers school system, Code Section 20-2-2063.2 for a charter system, Code
151 Section 20-2-2065 for a charter school, or Code Section 20-2-244."

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SECTION 6.

153 Title 48 of the Official Code of Georgia Annotated, relating revenue and taxation, is
 154 amended in Chapter 7, relating to income tax imposition, rate, computation, exemptions, and
 155 credits, by revising paragraphs (1) and (1.1) of subsection (f) of Code Section 48-7-29.16,
 156 relating to tax credits for contributions to student scholarship organizations, as follows:

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

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

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

161 (C) ~~For 2023 and all subsequent years, \$120~~ \$150 million per year.

162 (1.1) In no event shall the aggregate amount of tax credits allowed under this Code
 163 section to all business enterprises for state insurance premium tax liability owed pursuant
 164 to Code Section 33-8-4 exceed ~~\$6 million~~ 6 percent of the aggregate amount of tax
 165 credits allowed under this Code section for any year as provided in paragraph (1) of this
 166 subsection."

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SECTION 7.

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

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

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

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

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SECTION 8.

Said title is further amended in Chapter 8, relating to sales and use taxes, by revising paragraph (4) of Code Section 48-8-260, relating to definitions relative to special district mass transportation sales and use tax, as follows:

"(4) 'Transportation purposes' means and includes:

(A) Roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to ~~these~~ such transportation facilities, including new general obligation debt and other multiyear obligations issued to finance such purposes but excluding purposes of providing free or reduced fares for public transit services;

(B) The retirement of previously incurred general obligation debt with respect only to such purposes as identified in subparagraph (A) of this paragraph;

(C) A capital outlay project or projects under subparagraph (a)(1)(M) of Code Section 48-8-111, with respect only to such purposes as identified in subparagraph (A) of this paragraph; or

(D) Any combination of two or more of the foregoing."

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SECTION 9.

Said title is further amended is said chapter by revising subsection (c) of Code Section 48-8-269.46, relating to ballot question, expenses of election, resubmission of question, and general obligation debt for special districts within nonattainment areas relative to special districts for transit purposes sales and use tax (Transit SPLOST), by revising subsection (c) as follows:

"(c) Where such question is not approved by the voters, the county may resubmit such question ~~from time to time~~ upon compliance with the requirements of this article and after the passage of eight years from the date the special election was previously held."

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SECTION 10.

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(a) Except as provide in subsection (b) of this section, this Act shall become effective on July 1, 2026, and shall be applicable to all taxable years beginning on or after January 1, 2027.

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(b) Section 5 of this Act shall become effective on July 1, 2026,

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SECTION 11.

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