

The Senate Committee on Finance offered the following substitute to HB 1090:

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 allow such organizations to include as qualified expenditures wraparound
4 and mentorship services for justice involved youth; to expand the wraparound services that
5 are qualified expenditures; to provide for such tax credits to be used by certain insurance
6 companies against certain tax liability; to provide for conditions and limitations; to provide
7 for reporting and public website requirements; to provide for definitions; to provide for a
8 sunset; to provide for information sharing and limitations thereof; to provide for related
9 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**
13 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
14 is amended by revising Code Section 48-7-29.24, relating to tax credits for contributions to
15 foster child support organizations, as follows:

16 "48-7-29.24.

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

18 (1) 'Aging foster children' means:

19 (A) Foster children aged 16 through 18 ~~that would benefit based on projected status at~~
20 ~~age 18, as determined by the division;~~ and

21 (B) Former foster children ~~up to and including age 21, or age 25 if legally possible,~~
22 ~~aged 16 through 25 who have not been adopted or reunited with families were:~~

23 (i) In foster care for at least six months after reaching age 14 and who have not been
24 or were not adopted or reunited with family prior to reaching age 18;

25 (ii) Adopted after reaching age 14; or

26 (iii) In foster care for at least six months after reaching age 14 and:

27 (I) Meet the definition of 'homeless children and youths' pursuant to 42 U.S.C.
28 Section 11434a(2), the McKinney-Vento Homeless Assistance Act; or

29 (II) Qualify by reason of low income for the Supplemental Nutrition Assistance
30 Program.

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

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

35 (3) 'Division' means the Division of Family and Children Services of the Department of
36 Human Services.

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

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

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

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

45 (i) Operating an aging-out program that primarily supports aging foster children or
 46 operating as or supporting a Georgia licensed child-placing agency; or

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

49 (4.1) 'Justice involved youth' means youth aged 16 through 25 who:

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

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

55 (4.2) 'Mentorship services' means support services directly provided to an aging foster
 56 child or justice involved youth by a mentor, such as role modeling, informal counseling,
 57 guiding, motivating, and sharing time together.

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

61 (6) 'Qualified expenditures' means expenditures made by a qualified organization for:

62 (A) The costs associated with tuition waivers granted pursuant to Code Section
 63 20-3-660;

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

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

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

- 69 (3) Enrolled in a recognized vocational school; or
 70 (4) Participating in a registered apprenticeship program, provided that the participant
 71 and the organization for which the participant is an apprentice document that the
 72 participant is compliant with the rules of the apprenticeship program.
- 73 (C) Mentorship services provided to aging foster children and justice involved youth,
 74 provided that such expenditures shall not include:
- 75 (1) Compensation for a single mentor which exceeds no mentor shall be compensated
 76 in excess of \$100.00 per month for an aging foster child or justice involved youth or
 77 \$500.00 \$1,200.00 per year for any aging foster child or justice involved youth; or
 78 (2) Payments made to employees of a qualified organization who perform duties
 79 other than providing mentorship services for the organization.
- 80 (7) 'Qualified organization' means a foster child support organization that has been
 81 certified and listed by the division pursuant to subsection (d) of this Code section.
- 82 (8) 'Wraparound services' means services provided directly to aging foster children or
 83 justice involved youth to support their education through high school completion,
 84 vocational, and postsecondary education services, housing services, vocation services,
 85 medical services, counseling services, mentorship services, nutrition services,
 86 transportation services, or daily living essentials and clothing, and up to \$150.00 \$200.00
 87 per month in direct cash payments for use on personal necessities.
- 88 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
 89 exceed ~~\$20~~ \$30 million per calendar year.
- 90 (2) Subject to the aggregate limit provided in paragraph (1) of this subsection and the
 91 limitations of ~~subsection~~ subsections (b.1), (b.2), and (k) of this Code section, each:
- 92 (A) Taxpayer taxpayer shall be allowed a credit against the tax imposed by this chapter
 93 for qualified contributions ~~made by the taxpayer on or after January 1, 2023,~~ as follows:
- 94 (A)(i) In the case of a single individual or a head of household, the actual amount of
 95 qualified contributions made;

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

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

106 ~~(D)~~(iv) In the case of a A corporation or other entity not provided for in
 107 subparagraphs (A) divisions (i) through (C) (iii) of this paragraph shall be allowed a
 108 credit against the tax imposed by this chapter, for qualified contributions in an amount
 109 not to exceed subparagraph, the actual amount of qualified contributions made.

110 (B) Business enterprise shall be allowed a credit against the tax imposed by Code
 111 Section 33-8-4 in an amount equal to its qualified contributions.

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

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

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

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

120 (4) In the case of a corporation or other entity not provided for in paragraphs (1) through
 121 (3) of this subsection, 10 percent of such entity's ~~income~~ tax liability.

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

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

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

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

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

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

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

139 (d)(1) The division shall establish and maintain a web based application process for the
140 purpose of certifying foster child support organizations as qualified organizations. At a
141 minimum such application created by the division shall include an agreement submitted
142 by the applicant to fully comply with the terms and conditions of this Code section.

143 (2) The division shall certify any valid foster child support organization as a qualified
144 organization upon successful completion of such application process.

145 (3) The division shall certify any foster child support organization operating as a Georgia
146 licensed child-placing agency as a qualified organization within ten days of receipt of a
147 written request or application.

148 (4) ~~The division shall accept a first round of applications for certification as qualified~~
149 ~~organizations by October 1, 2022, and shall certify and notify such applicants of the~~
150 ~~division's decision on or before November 30, 2022. Thereafter the division shall~~
151 establish a process for rolling applications and certifications.

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

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

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

170 (f)(1) Each qualified organization shall issue to each contributor a letter of confirmation
171 of contribution, which shall include the taxpayer's or business enterprise's name, address,
172 tax identification number, the amount of the qualified contribution, the date of the
173 qualified contribution, and the total amount of the credit allowed to the taxpayer or
174 business enterprise.

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

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

184 (C) With respect to a business enterprise's tax return provided for in Code Section
185 33-8-6, the Commissioner of Insurance is authorized to promulgate rules and
186 regulations regarding the manner in which such letters of confirmation of donations
187 shall be filed in the case of tax returns filed electronically.

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

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

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

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

203 (i) The total number and dollar value of individual contributions and tax credits
204 approved. Individual contributions shall include contributions made by those filing
205 income tax returns as a single individual or head of household and those filing joint
206 returns;

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

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

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

212 (v) An accounting of the funds withheld from qualified contributions demonstrating
213 that no more than 20 percent of such funds were withheld from qualified
214 expenditures, as required by subparagraph (j)(1)(a) of this Code section.

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

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

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

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

227 I hereby certify that the foregoing financial declarations, including the amount of
228 qualified contributions received by [the qualified organization] and the description of
229 how [the qualified organization] utilized such contributions is true and correct. I further
230 certify that no more than 20 percent of qualified contributions were retained by [the
231 qualified organization].'

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

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

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

244 (j)(1)(A) Each qualified organization shall use at least 80 percent of the funds received
245 by it from qualified contributions to make qualified expenditures. Each qualified
246 organization shall maintain accurate and current records of all expenditures of such
247 funds and provide such records to the commissioner upon his or her request. In no
248 event shall a qualified organization retain for its own use or apply to its overhead or
249 administrative expenses more than 20 percent of the funds received pursuant to this
250 Code section.

251 (B) No foster child support organization that meets only the definition of such term as
252 provided in division (a)(4)(C)(ii) of this Code section shall retain more than 2.5 percent
253 of qualified contributions for itself for any reason and shall only serve to pass all of its

254 qualified contributions to one or more qualified organizations that are foster child
255 support organizations as such term is defined in subparagraphs (a)(4)(A), (a)(4)(B), or
256 division (a)(4)(C)(i) of this Code section.

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

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

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

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

275 (2) In no event shall the total amount of the tax credit under this Code section for a
276 taxable year exceed the taxpayer's income tax liability or such business enterprise's state
277 insurance premium tax liability owed pursuant to Code Section 33-8-4. Any unused tax
278 credit shall be allowed the taxpayer or business enterprise against the succeeding five
279 years' tax liability. No such credit shall be allowed the taxpayer or business enterprise
280 against prior years' tax liability.

281 (l) The chairperson of the House Appropriations Committee and the chairperson of the
282 Senate Committee on Appropriations shall have the authority to request an audit
283 concerning this Code section as a whole or of any one or more qualified organizations. The
284 commissioner, the state auditor, each qualified organization, each aging-out program, and
285 the director of the division shall cooperate to the full extent necessary to conduct such
286 audits.

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

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

292 (o) This Code section shall stand repealed and reserved on December 31, 2029."

293

SECTION 2.

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

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

306

SECTION 3.

307 This Act shall become effective on July 1, 2024, and shall be applicable to all taxable years
308 beginning on or after January 1, 2024.

309

SECTION 4.

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