

The House Committee on Ways and Means offers the following substitute to HB 1167:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 and Title 48 of the Official Code of Georgia Annotated, relating to
2 education and revenue and taxation, respectively, so as to remove a provision prioritizing
3 low-performing schools applicable to the award of grants to public schools by a nonprofit
4 corporation incorporated by the Georgia Foundation for Public Education for such purpose;
5 to increase the limits available to individuals, heads of household, married couples filing
6 joint returns, and individuals who are members of certain companies, corporations, or
7 partnerships; to provide for married couples filing separate returns; to increase the maximum
8 allowed amount of tax credits; to remove a restriction that such tax credit not be allowed if
9 the taxpayer's qualified education donation is designated for the direct benefit of any
10 particular school or program which the taxpayer's child or children attend; to provide for an
11 effective date and applicability; to provide for related matters; to repeal conflicting laws; and
12 for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in
16 Article 1 of Chapter 2, relating to the State Board of Education, by revising paragraph (1) of

H. B. 1167 (SUB)

17 subsection (g.1) of Code Section 20-2-14.1, relating to the Georgia Foundation for Public
18 Education, authorization to accept transfers of certain property held in trust by State Board
19 of Education, authorization for nonprofit corporation, authorization to receive donations from
20 taxpayers, requirements, and annual report, as follows:

21 "(g.1)(1) Effective January 1, 2022, a nonprofit corporation incorporated by the
22 foundation pursuant to this Code section shall be authorized to receive donations from
23 taxpayers pursuant to Code Section 48-7-29.21 for the purpose of awarding grants to
24 public schools for the implementation of academic and organizational innovations to
25 improve student achievement, ~~with priority given to schools that have performed in the~~
26 ~~lowest 5 percent of schools in this state identified in accordance with the state-wide~~
27 ~~accountability system established in the state plan pursuant to the federal Every Student~~
28 ~~Succeeds Act~~, and for the dissemination of information regarding successful innovations
29 to other public schools in this state. Funds received by the nonprofit corporation for such
30 purpose may be awarded through a competitive grant process administered by the
31 foundation. The criteria for awarding such grants shall include the potential to which the
32 innovation is likely to result in the proposed improvement, the potential for widespread
33 adoption of such innovation by other public schools in the state, the quality of the
34 proposed project design, the reasonableness of the costs involved in conducting the
35 project, and such other criteria which the foundation may deem appropriate and
36 necessary. The General Assembly may appropriate funds for purposes of this nonprofit
37 corporation beginning in Fiscal Year 2022."

38 **SECTION 2.**

39 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
40 amended in Article 2 of Chapter 7, relating to imposition, rate, computations, exemptions,
41 and credits regarding income taxes, by revising subsections (b), (d), and (f) of Code Section

42 48-7-29.21, relating to tax credits for qualified education donations for the purpose of
43 awarding grants to public schools, as follows:

44 "(b) An individual taxpayer shall be allowed a credit against the tax imposed by this
45 chapter for qualified education donations as follows:

46 (1) In the case of a single individual or a head of household, the actual amount donated
47 or ~~\$1,000.00~~ \$2,500.00 per tax year, whichever is less;

48 (2) In the case of a married couple filing:

49 (A) A a joint return, the actual amount donated or ~~\$2,500.00~~ \$5,000.00 per tax year,
50 whichever is less; or

51 (B) Separate returns, the actual amount donated per individual per tax year or
52 \$2,500.00 per individual per tax year, whichever is less; or

53 (3) Anything to the contrary contained in paragraph (1) or (2) of this subsection
54 notwithstanding, in the case of an individual who is a member of a limited liability
55 company duly formed under state law, a shareholder of a Subchapter 'S' corporation, or
56 a partner in a partnership, the amount donated or ~~\$10,000.00~~ \$25,000.00 per tax year,
57 whichever is less; provided, however, that tax credits pursuant to this paragraph shall
58 only be allowed for the portion of the income on which such tax was actually paid by
59 such member of the limited liability company, shareholder of a Subchapter 'S'
60 corporation, or partner in a partnership."

61 "~~(d)(1) The tax credit shall not be allowed if the taxpayer designates the taxpayer's~~
62 ~~qualified education donation for the direct benefit of any particular school or program~~
63 ~~which the taxpayer's child or children attend.~~

64 (2) In soliciting donations, the recipient shall not represent that, in exchange for donating
65 to such recipient, the school a taxpayer's child or children attend shall receive a grant
66 pursuant to subsection (g.1) of Code Section 20-2-14.1 or paragraph (2) of subsection
67 (b.1) of Code Section 20-14-26.1."

68 "(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code
69 section exceed:

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

71 (B) \$10 million for the tax year 2024, and for all subsequent tax years.

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

73 (3) For the purposes of paragraph (1) of this subsection, the recipient shall notify a
74 potential donor of the requirements of this Code section. Before making a donation to
75 the recipient, the taxpayer shall electronically notify the department, in a manner
76 specified by the department, of the total amount of donations that the taxpayer intends to
77 make to the recipient. The commissioner shall preapprove or deny the requested amount
78 within 30 days after receiving the request from the taxpayer and shall provide notice to
79 the taxpayer and the recipient of such preapproval or denial which shall not require any
80 signed release or notarized approval by the taxpayer. In order to receive a tax credit
81 under this Code section, the taxpayer shall make the donation to the recipient within 60
82 days after receiving notice from the department that the requested amount was
83 preapproved. If the taxpayer does not comply with this paragraph, the commissioner
84 shall not include this preapproved donation amount when calculating the limit prescribed
85 in paragraph (1) of this subsection. The department shall establish a web based donation
86 approval process to implement this subsection.

87 (4) Preapproval of donations by the commissioner shall be based solely on the
88 availability of tax credits subject to the aggregate total limit established under paragraph
89 (1) of this subsection. The department shall maintain an ongoing, current list on its
90 website of the amount of tax credits available under this Code section."

91 **SECTION 3.**

92 This Act shall become effective upon its approval by the Governor or upon its becoming law
93 without such approval and shall apply to all taxable years beginning on or after
94 January 1, 2024.

95 **SECTION 4.**

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