DEPARTMENT OF AUDITS AND ACCOUNTS

270 Washington St., S.W., Suite 1-156
Atlanta, Georgia 30334-8400

Greg S. Griffin
STATE AUDITOR
(404) 656-2174

March 30, 2021

Honorable Chuck Hufstetler
Chairman, Senate Finance
121 State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 517 (LC 49 0545S)

Dear Chairman Hufstetler:

This bill makes a number of changes to the operations of student scholarship organizations (SSOs) and to the associated state income tax credit.

- Regarding SSOs, the bill requires that interest on deposits and investments must be included with donations when determining the amount that must be made available for scholarships and that an SSO's annual audit include a verification that it complied with specific statutory requirements. The SSO must submit the audit within 60 days of its completion and must also submit its annual IRS Form 990. Finally, the SSO must be solely responsible for verifying student eligibility for program participation.
- Regarding the tax credit, the bill increases the limits on the amount of credits that may be claimed by personal income taxpayers in any year and enables business enterprises subject to the state insurance premium tax to claim this credit against their liability for that tax. The annual program cap of $100 million is not changed.

These changes would be effective for tax years beginning on or after January 1, 2022.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would reduce state revenue by up to $1.2 million a year through increased utilization of the credit (Table 1). While the program cap is unchanged, there is reason to believe that insurers may be more likely to follow through on donations after receiving preapproval of the credit than other taxpayers. This would increase the cost of the credit. Details of the analysis are provided in the attached appendix.

Table 1. Estimated State Revenue Effects of HB 517 LC 49 0545S

($ *millions*)	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Upper Bound Effect	($1.2)	($1.2)	($1.2)	($1.2)	($1.2)

Sincerely,

Greg S. Griffin

Greg S. Griffin
State Auditor

Kelly Farr

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

HB 517 LC 49 0545S proposes to make two changes to the qualified education expense tax credit (QEETC) under O.C.G.A. §48-7-29.16, effective for tax years beginning on or after January 1, 2022.

First, the bill would increase the annual limits on the amount of credits that may be earned by personal income taxpayers in the state as follows:

- from $1,000 to $2,500 for individuals,
- from $2,500 to $5,000 for couples filing a joint return, and
- from $10,000 to $25,000 for taxpayers who are members, partners, or shareholders of pass- through entities, but only to the extent of income tax actually paid by such person on income from the pass-through entity.

Second, the bill would enable business enterprises subject to the state insurance premium tax (IPT) to claim credits under this code section against their IPT liabilities. Credits earned by such business enterprises in any year are limited to the amount of qualified education expense or 75 percent of IPT liability, whichever is less, and in no case may the credit earned in a year exceed $1 million. The bill also caps the total amount of credits available to such business enterprises for use against the IPT to 5 percent of the overall cap on QEETCs, or currently $5 million per year of the $100 million overall annual cap.

It is not clear that these changes will actually impact the overall utilization of this credit, and thus state revenues, in any predictable or systematic way, but there are two mechanisms by which they may do so: the rate at which preapproved credits become contributions and thus actual credit claims in any year, and the rate at which credits can be utilized against tax liabilities in the year earned, rather than being carried forward and perhaps expiring unutilized (unused credits may only be carried forward for up to five years).

Regarding the higher individual and pass-through limits, this change would likely reduce the number of taxpayers preapproved for QEETCs, but this could either increase or decrease the actual amount of credits earned. The data available are not sufficient to determine whether larger credit applicants are more or less likely to follow through with their donation and actually earn a credit. Also, larger individual credit amounts earned in a year are likely, all else the same, to result in larger carryforwards, shifting the state revenue impact out to future periods. Given the uncertain and potentially offsetting effects, the higher limits are not assumed to impact state revenues.

Allowing insurers to take the credit against IPT liabilities is more likely to have an effect on state revenues. First, insurers may be more likely than other taxpayers to follow through on credit-earning donations, though this is speculative. In 2019, individual and corporate credit applicants who were preapproved followed through with their donations at about the same rate, 82 percent, though since 2014, corporate donors' contributions average 92 percent of preapproval amounts versus 89 percent for individual taxpayers. Second, IPT liabilities depend on premiums paid by insureds, not on taxable income of the insurer, so insurers' tax liabilities are likely more predictable than many individual and corporate donors. If this is so, it is likely that they would tend to fully utilize credits in the year earned and thus reduce overall carryforwards. This would tend to shift the cost to the state to the earlier years and may permanently increase the cost if it reduces the amount of credits that expire before they can be utilized.

Based on Department of Revenue (DOR) data on preapprovals, contributions, and credit utilization since 2014, the following is observed:

- Actual contributions, and thus new credits earned, have averaged 91 percent of the $58 million aggregate cap and preapprovals from 2014 thru 2018, dropping to 82 percent when the cap was raised to $100 million in 2019.
- Utilized credits from 2014 to 2018 have averaged 83.5 percent of new credits earned in the year.
- Taken together, credit utilization over this period has averaged about 76 percent of preapprovals each year.

If insurers followed through with contributions and utilized credits at the same rate as other taxpayers, the proposed 5 percent or $5 million cap on preapprovals for insurers to use against the IPT could be expected to result in about $3.8 million of credits utilized in the year of contribution and no change in the overall revenue cost of the credit.

On the other hand, if insurers follow through on and utilize 100 percent of the $5 million maximum available to them, then the overall revenue cost of the credit could be expected to increase by $1.2 million per year. Thus, for purposes of this note, $1.2 million per year can be considered an upper bound on the revenue effect of the proposed bill. For FY 2022, assuming insurers apply for preapproval of the full $5 million and make their contributions early in the calendar year, it is assumed for this upper bound that they would also utilize the credits earned against IPT liabilities by the end of the fiscal year, thus no fiscal year adjustment is made in the estimates in Table 1.