



## **Voucher Transparency Bill Offers Little Illumination: A Comparison of HB 517 and the Georgia Department of Audits Report on the Tuition Tax Credit Voucher Program**

[HB 517](#) takes several steps toward much-needed transparency for Georgia's tax credit private school voucher program but leaves many aspects of the program unclear. The bill, authored by Rep. John Carson (R-Marietta) and introduced during the 2021 legislative session, responds to some issues identified in a comprehensive [review](#) of the voucher program by the Georgia Department of Audits and Accounts (DOAA). The 2021 audit was undertaken at the request of the House Appropriations Committee. HB 517 falls short of action steps identified in the state audit. The bill's fate is uncertain. It passed both chambers during the 2021 session, but Senate lawmakers made changes to the bill. The House must now agree to those changes or, if the House disagrees, a conference committee comprised of members of both chambers will determine the bill's final version. Before passing HB 517, lawmakers should:

- Incorporate all recommendations from the DOAA to strengthen the voucher program's fiscal transparency and accountability.
- Add academic transparency and accountability requirements for students, which were discussed in the audit report but were outside the scope outlined by the House Appropriations Committee.
- Resist efforts to increase the existing \$100 million annual cap on this unproven voucher program and eliminate the sunset on the cap, which will return tax credit voucher funding to its previous level of \$58 million in 2029.

There were two attempts during the 2021 session to expand the tax credit voucher program. As HB 517 moved through the legislative process in 2021, several members of the House Education Committee sought to remove the sunset provision. Rep. Kasey Carpenter (R-Dalton) proposed [HB 142](#), which aims to increase the cap to \$150 million. The bill remains eligible to pass in 2022.

PAGE opposes the removal of the sunset and the expansion of the tuition tax credit voucher program. The program's impact on student learning, the most important consideration for policymakers, parents and educators, has never been evaluated. There are no data collection, analysis, and reporting requirements in place that would enable a rigorous evaluation of the program.

Findings and recommended action to improve the financial transparency and accountability of the tax credit private school voucher program from the audit are listed below. The current version of HB 517 proposes only a few of the recommendations in the DOA audit, which are denoted with a check mark. Items denoted with an X are not included in the legislation.

**1. “The Department of Revenue (DOR) does not have adequate controls to ensure that taxpayers’ tax liability is sufficient for the credit amount earned, claimed, and carried forward.” –2021 DOAA audit p. 11-13**

- DOR should develop processes to identify approved tax credit amounts that exceed the taxpayers’ tax liability and adjust those amounts.
- DOR should require that taxpayers identify the pass-through entities from which they are claiming income.

**2. “Due to insufficient data, it is not possible to fully evaluate whether administrative fees retained by SSOs are reasonable compared to their expenses.” –2021 DOAA audit p. 15-16**

- To ensure a reliable ratio of administrative revenues to administrative expenses can be calculated, the General Assembly should define these terms in statute and require they be reported.
- To ensure reported data is independently verified, the General Assembly should require it be attested to as part of the required compliance audits.
- If the General Assembly wants to increase transparency of financial and compliance reporting to the general public, it could statutorily permit or require the publication of SSOs’ compliance audit results.

**3. “Additional statutory oversight and reporting requirements can improve the fund and scholarship management information available to decision makers.” 2021 DOAA audit p. 17-19**

- The General Assembly should consider changing state law to more definitively identify the requirements SSOs must have verified and reported in compliance audits.
- The General Assembly may want to require SSOs to submit to DOR supporting data that would allow the state to verify the accuracy of summary reports.

- The General Assembly should consider modifying state law if it wants to permit state agencies access to SSO data in order to execute a more complete evaluation of fund management and scholarship distribution practices and compliance.

**4. “DOR and [the Georgia Department of Education] GaDOE can improve processes to better ensure SSO compliance with state law and agency requirements.” --2021 DOAA audit p. 19-21**

- DOR should review compliance audits to ensure they contain evidence that CPAs verified all O.C.G.A. § 20-2A- 2 financial and nonfinancial requirements.
- DOR should send noncompliance and final notification letters to SSOs in a more timely manner in accord with O.C.G.A. §§ 20-2A-2 and 20-2A-7.
- DOR and GaDOE should work together to better ensure that SSOs are removed from the active SSO provider list as soon as DOR issues a final notification letter.
- GaDOE should ensure that SSOs published as active providers are not prohibited from operating in the state according to Secretary of State records.

**5. “Other states have established practices that enhance financial, compliance, and program reporting and expand the accountability and transparency of their scholarship programs.” –2021 DOAA audit p. 22-27**

- If the General Assembly would like to adopt the financial accounts oversight and reporting practices in other states, the law should be changed to explicitly require financial audits.
- If the General Assembly wants to increase transparency of financial and compliance reporting to the general public, state law should be changed to reclassify compliance audits and establish mechanisms to make them publicly available.
- If the General Assembly would like additional financial, governance, and staffing information about SSOs, state law should be changed to require SSOs to submit Form 990s to DOR.
- If the General Assembly wants to have detailed information about schools that enroll students participating in the scholarship program, state law should be changed to require the reporting of this information to the state.

- If the General Assembly intends for interest earned on donations to be dedicated to scholarships, the law should be changed to require it.
- If the General Assembly intends for funds to be distributed/transferred to students by the end of the year following the year in which donations were received (instead of only obligating and designating funds), state law should be clarified.
- If the General Assembly intends for SSOs to be solely/ultimately responsible for determining student eligibility, state law should be clarified.
- The General Assembly should consider requiring SSOs to conduct background checks on employees.

**Other Recommendations (p. 28-29):**

**ACCOUNTABILITY AND TRANSPARENCY**

- Public reporting of SSOs no longer eligible to participate due to noncompliance – O.C.G.A. § 20-2A-2 requires DOR to post details on its website about SSOs identified as noncompliant and no longer eligible to actively participate as SSOs. However, the record of an SSO removed for noncompliance (or the reason for the removal) is not readily available on the GaDOE website where stakeholders such as school personnel, parents, and students are directed for scholarship program information. To enhance the transparency of the program and provide useful information to all stakeholders, the state could require that GaDOE post a list of SSOs removed from active status for compliance violations.

**FUND MANAGEMENT**

- No oversight and reporting mechanism to confirm scholarship funds are transferred from SSOs that cease operations (voluntarily or involuntarily) – O.C.G.A. § 20-2A-7 states that SSOs notified by DOR to cease operations due to noncompliance must transfer all scholarship account funds to an SSO in good standing within 30 days. However, state law does not establish an oversight and reporting mechanism to ensure the required fund transfer occurs, and state agencies have not established a method to track funds that should be transferred out of noncompliant SSO accounts. Additionally, state law does not explicitly establish requirements for SSOs that voluntarily cease operations. We were unable to determine whether remaining scholarship fund balances of multiple SSOs that ceased operations were transferred to another SSO or allocated in some other manner.

## PROGRAM DESIGN

- ⊗ Tax credit and scholarship supply/demand – There is currently no mechanism to monitor whether the demand for the qualified education expense tax credit is commensurate with the demand for scholarship funds the credit provides. This is true in the aggregate (all tax credit donations received, and all scholarships funds distributed by all SSOs) and by individual SSO.

Historical demand for the tax credit is well established and documented in segments of this report (see background) However, the demand for scholarship awards is less understood. Information on fund and scholarship management is limited, as discussed in this report (see Finding 5). As such, it not clear whether any given SSO (after collecting donations, retaining a fee, and depositing funds into scholarship account) would necessarily have a corresponding scholarship demand to match the funds collected. It is worth noting that the tax credit cap that is used to fund the scholarship program was increased significantly in 2019.

The aggregate demand for scholarship funds should be evaluated to ensure the scholarship fund demand matches funds made available by the tax credit.

Absent oversight and reporting mechanisms to explicitly monitor and report an SSO's (a) scholarship fund balance over time, (b) practices for obligating and designating funds for specific student recipients, and (c) timeliness of disbursing scholarship funds to students as awards, the state is unable determine whether actual demand for scholarship funds is commensurate to funds the SSO collected. In this report, we have advised the state to clarify its intent for timeliness of fund disbursement to students.

- ⊗ Preapproved but unfunded requests for tax credit are not reintegrated – The qualified education expense tax credit does not have a mechanism to reintegrate preapproved tax credits that are never earned with a donation. Once DOR preapproves a qualified education expense tax credit, it is essentially “spent” because the preapproved amount is applied against the aggregate annual tax credit limit (e.g., \$58 million in 2017 and 2018) even if donors who were preapproved never donated by the 60-day deadline. In these instances, any taxpayers who did not submit a tax credit request to be preapproved prior to the cap being met are unable to donate. By comparison, the Georgia Rural Hospital Tax Credit reopens access to preapproval requests for all unfunded portions of the annual tax credit cap after June 30 of each year. Since the cap

was increased to \$100 million the cap has not been met until December.

- ⊗ O.C.G.A. Chapter 20-2A definition of SSOs is outdated – O.C.G.A. § 20-2A-1 defines an SSO as an entity that allocates at least 90% of donations for scholarships. However, O.C.G.A. § 20-2A-2 was revised in 2019 to require SSOs to allocate at least 92% of donations for scholarship. We found instances in compliance audits from 2019 that attested to complying with allocating at least 90% of annual donations for scholarships.

## SSO OPERATIONS

- ✓ Consideration of student financial need – O.C.G.A. § 20-2A-2(1.1) requires “each student scholarship organization” to “consider financial needs of students” in awarding scholarships. Some SSOs indicated that they may rely on school officials to establish student financial need. If the General Assembly intends for the SSOs to be solely (or primarily) responsible for considering student financial need, it may need to clarify the point in statute.
- ✓ SSOs share donor and donation lists with schools – Some SSOs indicated that they provide schools with a list of donor names and the corresponding amount the donors contributed to the school. Although state law does not prohibit SSOs from sharing this type of information, O.C.G.A. § 48-7-29.16 prohibits donors from explicitly designating funds “for the direct benefit of any particular individual.” If the intent of the law is to prevent donors from benefitting directly from their donation, permitting SSOs to share detailed records of donors and donations may undermine that intent. Some SSOs have indicated that providing such a donor list to schools benefits school fundraising.

### **Further Action Needed on Academic Accountability and Transparency of Private Schools Accepting Tax Credit Vouchers**

HB 517 attempts to address only one aspect of transparency: financial. It avoids examining the voucher program’s effect on students, which has never been assessed. Moreover, unlike most other states with tax credit voucher programs, Georgia does not collect data that would enable a methodologically rigorous evaluation according to the state’s own audit report. Lawmakers should require collection of the data included in the table in appendix 1 to ensure academic accountability and transparency of the private schools that accept tax credit vouchers.

## Appendix 1

# Recommendations: Georgia Tax Credit Scholarship Program

*Collect and report the following information annually:*

### Students

- Gender
- Race
- Current grade level
- Grade level at program entry
- Criteria under which the student is eligible for program
- Assessment of academic progress as measured by Georgia Milestones or MAP
- Number of years in the program
- Number of students who also receive a special needs voucher

### Affected school districts

- Name of school districts that voucher students previously attended or would have attended
- Number of voucher students who withdrew from each district

### Participating private schools

- Name
- Location and tuition
- Number, race, gender, and family income measure of voucher students
- Assessment of academic progress as measured by Georgia Milestones or MAP for all voucher students and disaggregated by gender, race and family income
- Number and percent of voucher students retained annually

### Student scholarship organizations

- Donor names and number of years contributed to SSO