

The House Committee on Ways and Means offers the following substitute to HB 482:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 provide for the establishment of educational scholarship accounts; to provide for a short title;
3 to provide for definitions; to provide for qualified education expenses; to provide for
4 qualifications for students to participate in the account program; to establish certain
5 requirements for participating schools and service providers; to provide for accounts and
6 account funds; to establish a Parent Review Committee to review expenditures upon request;
7 to authorize the Office of the State Treasurer to promulgate rules and regulations; to provide
8 for annual testing of participating students; to provide for an annual report on the account
9 program; to provide for related matters; to provide for an effective date and applicability; to
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
14 adding a new chapter to read as follows:

15 style="text-align:center">"CHAPTER 2B

16 20-2B-1.

17 This chapter shall be known and may be cited as the 'Georgia Educational Scholarship Act.'

18 20-2B-2.

19 As used in this chapter, the term:

20 (1) 'Account' means a consumer directed account established pursuant to this chapter and
21 composed of state funds deposited on behalf of a participating student and which may be
22 used for qualified education expenses.

23 (2) 'Account funds' means the funds awarded on behalf of a participating student.

- 24 (3) 'Curriculum' means a complete course of study for a particular content area or grade
 25 level, including any supplemental materials required by the course of study.
- 26 (4) 'Office' means the Office of the State Treasurer.
- 27 (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with
 28 legal authority to act on behalf of a child.
- 29 (6) 'Participating school' means a private school that has notified the office of its
 30 intention to participate in the program and that complies with the office's requirements.
- 31 (7) 'Participating student' means a student for which an account has been established
 32 pursuant to this chapter.
- 33 (8) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
 34 accredited or in the process of becoming accredited by one or more of the entities listed
 35 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- 36 (9) 'Program' means the account program provided pursuant to this chapter.
- 37 (10) 'Qualified education expenses' means any one or more of the following:
- 38 (A) Tuition, fees, and required textbooks at a participating school;
- 39 (B) Tuition, fees, and required textbooks at a community college or accredited
 40 postsecondary institution;
- 41 (C) Tutoring services provided by an educator certified by the Professional Standards
 42 Commission;
- 43 (D) Payment for the purchase of curriculum, including any supplemental materials
 44 required by the curriculum;
- 45 (E) Tuition and fees for a nonpublic online learning program or course;
- 46 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
 47 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
 48 or speech-language therapies;
- 49 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
 50 transportation to or from a participating school or service provider;
- 51 (H) Fees for the management of account funds in accordance with subsection (e) of
 52 Code Section 20-2B-7; or
- 53 (I) Computer hardware or other technological devices approved by the office or a
 54 physician if the computer hardware or other technological device is used to meet the
 55 student's educational needs.
- 56 (11) 'Resident school system' means the public school system in which the student would
 57 be enrolled based on his or her residence.
- 58 (12) 'Service provider' means a person or entity that provides services that are covered
 59 as qualified education expenses other than a participating school.

60 20-2B-3.

61 (a) A student shall qualify for an account under this chapter if:

62 (1) The student's parent or parents currently reside within Georgia;

63 (2) The student has:

64 (A) A family income below 200 percent of the federal poverty level;

65 (B) Been adopted from foster care;

66 (C) A parent who is an active duty military service member stationed in Georgia within
67 the previous year;

68 (D) One or more of the following disabilities and has an Individualized Education
69 Program (IEP) written in accordance with federal and state laws and regulations:

70 (i) Autism;

71 (ii) Deaf/blind;

72 (iii) Deaf/hard of hearing;

73 (iv) Emotional and behavioral disorder;

74 (v) Intellectual disability;

75 (vi) Orthopedic impairment;

76 (vii) Other health impairment;

77 (viii) Specific learning disability;

78 (ix) Speech-language impairment;

79 (x) Traumatic brain injury; or

80 (xi) Visual impairment;

81 (E) A documented case of having been bullied; or

82 (F) Spent the prior school year in attendance at a Georgia public school system or
83 school systems for funding purposes during the preceding October and March full-time
84 equivalent (FTE) program counts in accordance with Code Section 20-2-160;

85 (3) The student's parent signs an agreement promising:

86 (A) To provide an education for the participating student in at least the subjects of
87 reading, grammar, mathematics, social studies, and science;

88 (B) Not to enroll his or her child in a local school system school, local charter school,
89 or state charter school while participating in the program;

90 (C) Not to enroll his or her child in the scholarship program established pursuant to
91 Article 33 of Chapter 2 of this title for special needs students while participating in the
92 program; and

93 (D) To use account funds only for qualified education expenses of the participating
94 student; and

95 (4) The student's parent submits an application for an account to the office no later than
96 the deadline established by the office; provided, however, that the office shall provide

97 quarterly application periods that correspond with quarterly funding dates pursuant to
 98 subsection (d) of Code Section 20-2B-5. The number of participating students in the first
 99 year of the program shall be limited to an amount equivalent to one-quarter of 1 percent
 100 of the state-wide total public school enrollment in the 2017-2018 school year. Each
 101 subsequent year, such limit shall increase by an additional one-quarter of 1 percent of the
 102 prior year's state-wide total public school enrollment. If during an enrollment period, the
 103 office receives more applications than is permitted under this subsection, the office shall
 104 give equal priority admittance to students qualifying for an account pursuant to
 105 subparagraphs (A) through (E) of paragraph (2) of subsection (a) of this Code section and
 106 admit students who qualify for an account pursuant to subparagraph (F) of paragraph (2)
 107 of subsection (a) of this Code section for any remaining spots through the use of a
 108 random selection process.

109 (b) Upon acceptance of the account, the parent assumes full financial responsibility for the
 110 education of the participating student, including transportation to and from the participating
 111 school or service provider.

112 (c) Students enrolled in a school operated by the Department of Juvenile Justice are not
 113 eligible for the program.

114 (d) A participating student shall continue to be eligible to receive account funds until the
 115 student returns to a public school, graduates from high school, or reaches the age of 20
 116 years, or for special education students, reaches the age of 21 years.

117 (e) For participating students with a disability, acceptance of an account shall have the
 118 same effect as a parental placement of their child under 20 U.S.C. Section 1412(10)(a) of
 119 the federal Individuals with Disabilities Education Act.

120 (f) The creation of the program or the granting of an account pursuant to this chapter shall
 121 not be construed to imply that a public school did not provide a free and appropriate public
 122 education for a student or constitute a waiver or admission by the state.

123 (g) Any account funds directed to a participating school or service provider are so directed
 124 wholly as a result of the genuine and independent private choice of the parent.

125 (h) The parent of each student participating in the program shall comply fully with the
 126 participating school or service provider's rules and policies.

127 (i) Any parent who fails to comply with the provisions of this chapter and office
 128 regulations relating to the program shall forfeit the account and all account funds therein.

129 20-2B-4.

130 (a) To be eligible to enroll a participating student, a participating school shall:

131 (1) Demonstrate fiscal soundness by having been in operation for one school year or by
 132 submitting a financial information report for the school that complies with uniform

133 financial accounting standards established by the office and conducted by a certified
 134 public accountant. The report must confirm that the school desiring to participate is
 135 insured and the owner or owners have sufficient capital or credit to operate the school for
 136 the upcoming school year serving the number of students anticipated with expected
 137 revenues from tuition and other sources that may be reasonably expected. The report
 138 shall be limited in scope to those records that are necessary for the office to make a
 139 determination on fiscal soundness of the school;

140 (2) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;

141 (3) Comply with all health and safety laws or codes that apply to private schools;

142 (4) Comply with all provisions of Code Section 20-2-690 and any other state law
 143 applicable to private schools; and

144 (5) Employ or contract with teachers who hold a bachelor's degree or higher degree or
 145 have at least three years of experience in education and annually provide to the parents
 146 the relevant credentials, including any teacher or subject matter certifications, of the
 147 teachers who will be teaching their students.

148 (b) A participating school or service provider may apply to the office to participate in the
 149 program and accept account funds for providing services covered as qualified education
 150 expenses.

151 (c) The office shall establish standards that a participating school or service provider must
 152 meet to receive approval by the office to participate in the program.

153 (d) The office shall, not later than 60 days after receiving a participating school's or service
 154 provider's application for approval, notify such school or service provider as to whether its
 155 application has been approved or denied. If the office denies an application, the office shall
 156 provide a reason and notify the school or service provider that it may appeal the decision
 157 to the Parent Review Committee created pursuant to Code Section 20-2B-6.

158 (e) A participating school and service provider shall not refund, rebate, or share account
 159 funds with a parent or student in any manner. The funds in an account shall only be used
 160 for qualified education expenses.

161 (f) The creation of the program shall not be construed to expand the regulatory authority
 162 of the state, its officers, or any local school system to impose any additional regulation of
 163 nonpublic schools beyond those reasonably necessary to enforce the requirements of this
 164 chapter.

165 20-2B-5.

166 (a) The account funds granted to a participating student pursuant to this chapter shall be:

167 (1) For students with an Individualized Education Program (IEP) written in accordance
 168 with federal and state laws and regulations, an amount equivalent to the costs of the

169 educational program that would have been provided for the student in the resident school
170 system, including appropriate weights, as calculated under Code Section 20-2-161. This
171 shall not include any federal funds; and

172 (2) For all students other than those students provided for in paragraph (1) of this
173 subsection, an amount equal to 100 percent of the system-wide average per student
174 amount of state funds for the student's resident school system.

175 (b) Participating students shall be counted in the enrollment of their resident school
176 system; provided, however, that this count shall only be for purposes of determining the
177 amount of account funds to be deposited into the account and the participating students
178 shall not be included as enrolled for purposes of state or federal accountability
179 requirements, including, but not limited to, the federal Elementary and Secondary
180 Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110). The
181 funds needed to fund an account shall be subtracted from the allotment payable to the
182 resident school system.

183 (c) Each local school system shall submit quarterly reports to the office on dates
184 established by the office stating the number of participating students in the resident school
185 system. Following each notification, the office shall transfer from the state allotment to
186 each local school system the amount calculated under subsection (a) of this Code section
187 to a separate account for the program for quarterly disbursement to the individual accounts
188 of participating students.

189 (d)(1) When a student enters the program, the office must receive all documentation
190 required for the student's participation during a quarterly enrollment period pursuant to
191 paragraph (4) of subsection (a) of Code Section 20-2B-3 before the first quarterly account
192 payment is made for the student.

193 (2) Upon proper documentation received by the office, the office shall make quarterly
194 payments to the account of a participating student, beginning with the first quarterly
195 payment that corresponds with the enrollment period in which the student's application
196 was received. As nearly as practical, such quarterly payments shall be equal; provided,
197 however, that this shall not prevent payments from being adjusted due to budgetary
198 midterm adjustments made pursuant to Code Section 20-2-162. The state auditor shall
199 cite as an audit exception any failure by the office to meet any payment deadlines and
200 shall include such audit exceptions on the website established pursuant to Code
201 Section 50-6-32.

202 (3) The office shall develop a system for parents to direct account funds to participating
203 schools and service providers by electronic funds transfer, automated clearing house
204 transfer, or another system that the office finds to be commercially viable, cost-effective,
205 and easy for parents of participating students to use. The office shall not adopt a system

206 that relies solely on reimbursing parents for out-of-pocket expenses, but may determine
 207 certain qualified education expenses that must require reimbursement or preapproval for
 208 purchase. The office is authorized to qualify private financial management firms to
 209 manage the payment system. The office, at its discretion, shall be authorized to create
 210 a system of individually funded accounts or notional accounts funded through a single
 211 state omnibus account.

212 (4) If the participating school requires partial payment of tuition prior to the start of the
 213 academic year to reserve space for students admitted to the school, such partial payment
 214 may be paid by the office prior to the first quarterly payment of the year in which the
 215 account is awarded, up to a maximum of \$1,000.00, and deducted from subsequent
 216 account payments. If a student decides not to attend the participating school, the partial
 217 reservation payment must be returned to the office by such school. Only one reservation
 218 payment per student may be made per year.

219 (e) Funds received pursuant to this Code section shall not constitute taxable income of the
 220 parent of the participating student.

221 (f) Parents shall not be required to spend the entire sum of account funds in an account
 222 each year. However, no more than 50 percent of a student's annual total account funds
 223 amount shall roll over to the following year. Rolled over funds may be accessed by a
 224 participating student for qualified education expenses until the student reaches the age of
 225 22 years, at which point all unused funds shall be returned to the state general fund.

226 (g) Nothing in this chapter shall be deemed to prohibit a parent or child from making a
 227 payment for any tuition, fee, service, or product described in this chapter from a source
 228 other than the account funds of the child.

229 20-2B-6.

230 (a) To assist in the determination of whether certain expenses meet the requirements to be
 231 considered a qualified education expense under this chapter, a Parent Review Committee
 232 shall be established.

233 (b)(1) The committee shall be composed of eight parents of participating students and
 234 represent at least four counties.

235 (2) Members of the committee shall be appointed by and serve at the pleasure of the
 236 State Treasurer.

237 (3) Members of the committee shall serve for one-year terms and may be reappointed.

238 (4) The state treasurer or his or her designee shall serve as the chair of the committee and
 239 shall only vote in the event of a tie.

240 (c) The office may request the committee to determine whether an expenditure of account
 241 funds from an account qualifies as a qualified education expense under this chapter.

242 (d) The office may request the committee review appeals of participating schools or
 243 service provider application denials pursuant to subsection (d) of Code Section 20-2B-4.

244 20-2B-7.

245 (a) The office shall adopt rules and regulations as necessary for the administration of the
 246 program. The office shall adopt rules and regulations regarding eligibility and participation
 247 of participating schools and service providers, including, but not limited to, timelines that
 248 will maximize student and private school participation, the calculation and distribution of
 249 accounts to participating students, and the application and approval procedures for
 250 participating students, participating schools, and service providers. The office shall
 251 develop and utilize a compliance form for completion by participating schools and service
 252 providers. The office shall be authorized to require any pertinent information as it deems
 253 necessary from participating schools and service providers for the purpose of implementing
 254 the program. Participating schools and service providers shall be required to complete such
 255 forms and certify their accuracy.

256 (b) No liability shall arise on the part of the office or the state or of any local board of
 257 education based on the award or use of an account awarded pursuant to this chapter.

258 (c) The office shall have the authority to conduct or contract for the auditing of accounts
 259 and shall, at a minimum, conduct random audits on an annual basis. The office shall have
 260 the authority to make any parent or participating student ineligible for the program in the
 261 event of misuse of account funds.

262 (d) The office shall have the authority to refer cases of substantial misuse of account funds
 263 to the Attorney General for investigation if evidence of fraudulent use is obtained.

264 (e) The office may deduct an amount from accounts to cover the costs of overseeing and
 265 administering the program, up to a maximum of 4 percent annually.

266 (f) The office may contract with a qualified nonprofit organization to administer the
 267 program or specific functions of the program.

268 (g) The office shall provide parents of participating students with an explanation of the
 269 allowable uses of account funds, the responsibilities of parents, and the duties of the office.

270 20-2B-8.

271 (a)(1) In order to allow parents and taxpayers to measure the achievements of the
 272 program, the office shall annually approve no fewer than three nationally
 273 norm-referenced tests that measure student academic progress in math and language arts.

274 (2) Private schools enrolling participating students shall ensure that all participating
 275 students are annually administered a nationally norm-referenced test identified by the

276 office or a state-wide assessment administered pursuant to Code Section 20-2-281, which
 277 shall be made available by the resident school system.

278 (3) The office shall develop a process for the annual administration of a nationally
 279 norm-referenced test or a state-wide assessment and the collection of results for
 280 participating students not enrolled full time in a private school.

281 (b) The results of such norm-referenced tests or state-wide assessments shall be provided
 282 to and collected by the office or an organization chosen by the office on an annual basis.

283 (c) Student information shall be reported and collected in a manner that allows the state
 284 to aggregate data by grade level, gender, family income level, and race.

285 (d) The office or an organization chosen by the office shall collect information regarding
 286 the high school graduation of all participating students.

287 20-2B-9.

288 (a) The office shall provide the General Assembly not later than December 1 of each year
 289 with a report regarding the program for the previous fiscal year. Such report shall also be
 290 posted on the office's website.

291 (b) The report shall include, but not be limited to, numbers and demographics of
 292 participating students and numbers of participating schools. The report shall also include:

293 (1) Participating student performance on nationally norm-referenced tests or state-wide
 294 assessments, including aggregate information on long-term performance gains;

295 (2) The level of satisfaction with the program from parents of participating students;

296 (3) The percentage of funds used for each type of qualified education expense included
 297 in paragraph (10) of Code Section 20-2B-2; and

298 (4) The fiscal impact to the state and resident school systems of the program, taking into
 299 consideration both the impact on revenue and the impact on expenses. The fiscal savings
 300 associated with students departing public schools shall be explicitly quantified, even if
 301 the public school losing the student or students does not reduce its spending.

302 (c) The report shall apply appropriate analytical and behavioral science methodologies to
 303 ensure public confidence in such report.

304 (d) The report shall protect the identity of participating students and participating schools
 305 through whatever means the office deems appropriate, including, but not limited to, by
 306 keeping anonymous all disaggregated data and complying with state and federal guidelines
 307 for student privacy."

308

SECTION 2.

309 This Act shall become effective upon its approval by the Governor or upon its becoming law
310 without such approval and shall apply to the 2018-2019 school year and all school years
311 subsequent thereto.

312

SECTION 3.

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