House Bill 542

By: Representatives Wilkerson of the 38th, Mosby of the 83rd, Bentley of the 139th, and Bryant of the 162nd

A BILL TO BE ENTITLED

AN ACT

To amend Article 11 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the higher education savings plan, so as to provide for matching of contributions by the state for certain low-income contributors; to provide for purposes; to provide for authority of the board; to provide for operation of the program, terms, and limitations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 11 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the higher education savings plan, is amended by revising Code Section 20-3-631, relating to purpose of the higher education savings plan, as follows:

"20-3-631.

The purposes of this article are to:

(1) Provide a program or programs of savings trust agreements to apply distributions toward qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code or other applicable federal law;

(2) Provide for the creation of the Georgia Higher Education Savings Plan, as an instrumentality of the State of Georgia, to assist qualified students in financing costs of attending institutions of higher education;

(3) Encourage timely financial planning for higher education by the creation of savings trust accounts;

(4) Provide a savings program for those persons who wish to save to meet postsecondary educational needs, including postgraduate educational needs; ~~and~~

(5) Attract students to institutions of higher education within the state<u>; and</u>

<u>(6) Provide incentives for low-income families to save for higher education.</u>"

SECTION 2.

Said article is further amended by revising subsection (b) of Code Section 20-3-633, relating to creation of the Georgia Higher Education Savings Plan and a board of directors, as follows:

"(b) The board shall have the authority necessary or convenient to carry out the purposes and provisions of this article and the purposes and objectives of the trust fund, including, but not limited to, the authority to:

(1) Have a seal and alter the same at its pleasure; bring and defend actions; make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and make and amend bylaws;

(2) Adopt such rules and regulations as are necessary to implement this article, subject to applicable federal laws and regulations, including rules regarding transfers of funds between accounts established under savings trust agreements;

(3) Contract for necessary goods and services, employ necessary personnel, and engage the services of consultants and other qualified persons and entities for administrative and technical assistance in carrying out the responsibilities of the trust fund under terms and conditions that the board deems reasonable; and any and all state departments or agencies are authorized to contract with the board, and the board is authorized to contract with such departments or agencies, upon such terms, for such consideration, and for such purposes as they deem advisable;

(4) Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust, or other disposition grants, loans, and other aids from any personal source or participate in any other way in any federal, state, or local governmental program in carrying out the purposes of this article;

(5) Define the terms and conditions under which payments may be withdrawn or refunded from the trust fund established under this article and impose reasonable charges for a withdrawal or refund;

(6) Impose reasonable time limits on the use of savings trust account distributions provided by the program;

(7) Regulate the receipt of contributions or payments to the trust fund;

(8) Require and collect fees and charges to cover the reasonable costs of administering savings trust accounts and impose penalties on an unqualified withdrawal of funds or for entering into a savings trust agreement on a fraudulent basis;

(9) Procure insurance against any loss in connection with the property, assets, and activities of the trust fund or the plan;

(10) Require that account owners of savings trust agreements verify in writing, before a person authorized to administer oaths, any requests for contract conversions, substitutions, transfers, cancellations, refund requests, or contract changes of any nature;

(11) Solicit proposals and contract for the marketing of the program, provided that any materials produced by a marketing contractor for the purpose of marketing the program must be approved by the board before being made available to the public, unless otherwise directed by the board, establish a name for the program, and adopt and use marketing names, brands, logos, or other descriptions or representations of the program as may be deemed desirable or convenient for promoting, publicizing, or otherwise marketing the program within this state, outside this state, or both;

(12) Delegate responsibility for administration of any program to a financial organization that the board determines is qualified;

(13) Make all necessary and appropriate arrangements with colleges and universities or other entities in order to fulfill its obligations under savings trust agreements;

(14) Establish other policies, procedures, and criteria and perform such other acts as necessary or appropriate to implement and administer this article; ~~and~~

(15) Authorize the state treasurer to carry out any or all of the powers and duties enumerated in this subsection for efficient and effective administration of the plan, program, and trust fund; and

(16) Implement a program whereby public funds are expended for the purpose of matching contributions made by certain low-income contributors in accordance with this article.″

SECTION 3.

Said article is further amended by adding a new Code section to read as follows:

″20-3-635.1.

(a) The board shall develop and implement a program that uses available administrative funds to provide matching contributions to certain eligible savings trust accounts in accordance with the provisions of this Code section.

(b)(1) Any disbursement of moneys for matching contributions pursuant to this Code section shall be subject to appropriations by the General Assembly or the availability of funds acquired through grants, gifts, donations, bequests, or federal money which have been designated for use as matching contributions by the entity providing such funds. Any such appropriations which are not expended in the fiscal year in which they are disbursed shall lapse to the general fund of the state treasury.

(2) The board shall develop procedures through which account contributors may apply to receive matching contributions.

(3) Eligibility for matching contributions shall be based solely on financial need, as determined by an account contributor's most recent federal income tax return. Matching contributions shall be awarded first to the applicant with the lowest adjusted gross income and then in order of increasing adjusted gross income until all available funds are exhausted. The matching contribution amounts shall be as follows:

(A) For an account contributor with an adjusted gross income of $30,000.00 or less as indicated by such contributor's most recent federal income tax return, matching contributions shall be double the amount contributed to each savings trust account by such account contributor;

(B) For an account contributor with an adjusted gross income between $30,000.00 and $60,000.00 as indicated by such contributor's most recent federal income tax return, matching contributions shall be equal to the amount contributed to each savings trust account by such account contributor; and

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, matching contributions shall not exceed $500.00 per beneficiary per year.

(c) In the event of an unqualified withdrawal, a penalty equal to the total amount of all matching contributions disbursed by the board pursuant to this Code section and any interest accrued on such contributions shall be imposed, and such amount shall be returned to the state, regardless of the year in which such matching contributions were disbursed or unqualified withdrawal was made; provided, however, that such penalty shall not exceed the amount of the unqualified withdrawal. Any funds returned to the state pursuant to this subsection shall be paid over into the general fund of the state treasury.

(d) No matching contributions made pursuant to this Code section shall be considered the contribution of an account contributor which would otherwise be available for deduction from the taxable net income of such account contributor pursuant to paragraph (11.1) of subsection (a) of Code Section 48-7-27.″

SECTION 4.

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