

House Bill 60

By: Representatives Cantrell of the 22nd, Carpenter of the 4th, Jasperse of the 11th, Clark of the 147th, Fleming of the 121st, and others

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 Student Achievement to promulgate rules and regulations; to
8 provide for annual testing of participating students; to provide for an annual report on the
9 account program; to provide for related matters; to provide for an effective date and
10 applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **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:

H. B. 60

15 "CHAPTER 2B16 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 Student Achievement.27 (5) 'Parent' means a biological parent, legal guardian, custodian, or other person with
28 legal authority to act on behalf of a student.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 whom an account has been established
32 pursuant to this chapter.33 (8) 'Postsecondary institution' means a school which is:34 (A) A unit of the University System of Georgia;35 (B) A branch of the Technical College System of Georgia; or36 (C) An independent or private college or university located in Georgia and eligible to
37 be deemed an 'approved school' pursuant to paragraph (2) of Code Section 20-3-411.

38 (9) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
39 accredited or in the process of becoming accredited by one or more of the entities listed
40 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.

41 (10) 'Program' means the account program provided pursuant to this chapter.

42 (11) 'Qualified education expenses' means any one or more of the following:

43 (A) Tuition, fees, and required textbooks at a participating school;

44 (B) Tuition, fees, and required textbooks at a community college or accredited
45 postsecondary institution;

46 (C) Tutoring services provided by an educator certified by the Professional Standards
47 Commission;

48 (D) Payment for the purchase of a curriculum, including any supplemental materials
49 required by the curriculum;

50 (E) Tuition and fees for a nonpublic online learning program or course;

51 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
52 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
53 or speech-language therapies;

54 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
55 transportation to or from a participating school or service provider;

56 (H) Fees for the management of account funds in accordance with subsection (e) of
57 Code Section 20-2B-7; or

58 (I) Computer hardware or other technological devices approved by the office or a
59 physician if the computer hardware or other technological device is used to meet the
60 student's educational needs.

61 (12) 'Resident school system' means the public school system in which the student would
62 be enrolled based on his or her residence.

63 (13) 'Service provider' means a person or entity that provides services that are covered
64 as qualified education expenses other than a participating school.

65 20-2B-3.

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

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

68 (2) The student has:

69 (A) A family income below 200 percent of the federal poverty level and is currently
70 enrolled in a public school in this state;

71 (B) Been adopted from foster care;

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

74 (D) One or more of the following disabilities and has an Individualized Education
75 Program (IEP) written in accordance with federal and state laws and regulations and is
76 currently enrolled in a public school in this state:

77 (i) Autism;

78 (ii) Deaf/blind;

79 (iii) Deaf/hard of hearing;

80 (iv) Emotional and behavioral disorder;

81 (v) Intellectual disability;

82 (vi) Orthopedic impairment;

83 (vii) Other health impairment;

84 (viii) Specific learning disability;

85 (ix) Speech-language impairment;

86 (x) Traumatic brain injury; or

87 (xi) Visual impairment;

88 (E) A documented case of having been bullied and is currently enrolled in a public
89 school in this state; or

- 90 (F) The student spent the previous school year enrolled in a public school which is part
91 of a local school system not currently offering an option for students to receive 100
92 percent of instruction in person;
- 93 (3) The student's parent signs an agreement promising:
- 94 (A) To provide an education for the participating student in at least the subjects of
95 reading, grammar, mathematics, social studies, and science;
- 96 (B) Not to enroll the student in a local school system school, local charter school, or
97 state charter school while participating in the program; and
- 98 (C) To use account funds only for qualified education expenses of the participating
99 student; and
- 100 (4) The student's parent submits an application for an account to the office no later than
101 the deadline established by the office; provided, however, that the office shall provide
102 quarterly application periods that correspond with quarterly funding dates pursuant to
103 subsection (d) of Code Section 20-2B-5. The number of participating students in the first
104 year of the program shall be limited to an amount equivalent to one-half of 1 percent of
105 the state-wide total public school enrollment in the 2020-2021 school year. Each
106 subsequent year, such limit shall increase by an additional one-half of 1 percent of the
107 previous year's state-wide total public school enrollment up to a maximum of 5 percent.
108 If during an enrollment period, the office receives more applications than is permitted
109 under this subsection, the office shall give equal priority admittance to students
110 qualifying for an account through the use of a random selection process.
- 111 (b) Upon acceptance of the account, the parent assumes full financial responsibility for the
112 education of the participating student, including transportation to and from the participating
113 school or service provider.
- 114 (c) Students enrolled in a school operated by the Department of Juvenile Justice are not
115 eligible for the program.

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

119 (e) For participating students with a disability, acceptance of an account shall have the
120 same effect as a parental refusal to consent to services pursuant to the Individuals with
121 Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq.

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

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

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

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

131 20-2B-4.

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

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

- 142 (2) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
143 (3) Comply with all health and safety laws or codes that apply to private schools;
144 (4) Comply with all provisions of Code Section 20-2-690 and any other state law
145 applicable to private schools; and
146 (5) Employ or contract with teachers who hold a bachelor's degree or higher degree or
147 have at least three years of experience in education and annually provide to the parents
148 the relevant credentials, including any teacher or subject matter certifications, of the
149 teachers who will be teaching their students.
- 150 (b) A participating school or service provider may apply to the office to participate in the
151 program and accept account funds for providing services covered as qualified education
152 expenses.
- 153 (c) The office shall establish standards that a participating school or service provider must
154 meet to receive approval by the office to participate in the program.
- 155 (d) The office shall, not later than 60 days after receiving a participating school's or service
156 provider's application for approval, notify such school or service provider as to whether its
157 application has been approved or denied. If the office denies an application, the office shall
158 provide a reason and notify the school or service provider that it may appeal the decision
159 to the Parent Review Committee created pursuant to Code Section 20-2B-6.
- 160 (e) A participating school and service provider shall not refund, rebate, or share account
161 funds with a parent or student in any manner.
- 162 (f) The creation of the program shall not be construed to expand the regulatory authority
163 of the state, its officers, or any local school system to impose any additional regulation of
164 nonpublic schools beyond those reasonably necessary to enforce the requirements of this
165 chapter.
- 166 20-2B-5.
- 167 (a) The account funds granted to a participating student pursuant to this chapter shall be:

168 (1) For students with an Individualized Education Program (IEP) written in accordance
169 with federal and state laws and regulations, an amount equivalent to the costs of the
170 educational program that would have been provided for the student in the resident school
171 system, including appropriate weights, as calculated under Code Section 20-2-161. This
172 shall not include any federal funds; and

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

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

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

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

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

203 (3) The office shall develop a system for parents to direct account funds to participating
204 schools and service providers by electronic funds transfer, automated clearing house
205 transfer, or another system that the office finds to be commercially viable, cost-effective,
206 and easy for parents of participating students to use. The office shall not adopt a system
207 that relies solely on reimbursing parents for out-of-pocket expenses, but may determine
208 certain qualified education expenses that must require reimbursement or preapproval for
209 purchase. The office is authorized to qualify private financial management firms to
210 manage the payment system. The office, at its discretion, shall be authorized to create
211 a system of individually funded accounts or notional accounts funded through a single
212 state omnibus account.

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

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

222 (f) Funds deposited into an account shall be used only for qualified education expenses for
223 the participating student. Unused funds in an account, up to an amount not greater than 50
224 percent of the total funds deposited into the account for the current school year, shall roll
225 over to the following school year; provided, however, that, if an account has been inactive
226 for two consecutive years, the funds in such account shall be returned to the state general
227 fund and the account shall be closed. Upon high school graduation of the participating
228 student, any unused funds shall roll over and may be used for tuition at a postsecondary
229 institution located in this state.

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

233 20-2B-6.

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

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

239 (2) Members of the committee shall be appointed by and serve at the pleasure of the
240 executive director of the office.

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

242 (4) The executive director of the office or his or her designee shall serve as the chair of
243 the committee and shall only vote in the event of a tie.

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

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

248 20-2B-7.

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

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

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

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

268 (e) The office may deduct an amount from accounts to cover the costs of overseeing and
269 administering the program, up to a maximum of 3 percent annually.

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

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

274 20-2B-8.

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

278 (2) Private schools enrolling participating students shall ensure that all participating
279 students are annually administered a nationally norm-referenced test identified by the
280 office or a state-wide assessment administered pursuant to Code Section 20-2-281, which
281 shall be made available by the resident school system.

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

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

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

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

291 20-2B-9.

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

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

- 297 (1) Participating student performance on nationally norm-referenced tests or state-wide
298 assessments, including aggregate information on long-term performance gains;
299 (2) The level of satisfaction with the program from parents of participating students;
300 (3) The percentage of funds used for each type of qualified education expense included
301 in paragraph (10) of Code Section 20-2B-2; and
302 (4) The fiscal impact to the state and resident school systems of the program, taking into
303 consideration both the impact on revenue and the impact on expenses. The fiscal savings
304 associated with students departing public schools shall be explicitly quantified, even if
305 the public school losing the student or students does not reduce its spending.
306 (c) The report shall apply appropriate analytical and behavioral science methodologies to
307 ensure public confidence in such report.
308 (d) The report shall protect the identity of participating students and participating schools
309 through whatever means the office deems appropriate, including, but not limited to, by
310 keeping anonymous all disaggregated data and complying with state and federal guidelines
311 for student privacy."

312 **SECTION 2.**

313 This Act shall become effective upon its approval by the Governor or upon its becoming law
314 without such approval and shall apply to the 2021-2022 school year and all school years
315 subsequent thereto.

316 **SECTION 3.**

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