

The House Committee on Education offers the following substitute to HB 60:

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 promise scholarship accounts; to provide for definitions; to
3 provide for qualified education expenses; to provide for qualifications for students to
4 participate in the promise scholarship account program; to establish certain requirements for
5 participating schools and service providers; to provide for accounts and account funds; to
6 establish a parent review committee to review expenditures upon request; to authorize the
7 Georgia Student Finance Commission to participate in the promise scholarship account
8 program; to authorize the Georgia Student Finance Commission to promulgate rules,
9 regulations, and administrative procedures; to provide for an annual report on the program
10 by the Georgia Student Finance Commission; to provide for annual testing of participating
11 students; to provide for audits by the Department of Audits and Accounts; to provide for a
12 short title; to provide for related matters; to provide for contingent effectiveness; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 60 (SUB)

- 1 -

15 **SECTION 1.**

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

18 **"CHAPTER 2B**19 **20-2B-1.**

20 **This chapter shall be known and may be cited as the 'Georgia Promise Scholarship Act.'**

21 **20-2B-2.**

22 **As used in this chapter, the term:**

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

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

27 **(3) 'Commission' means the Georgia Student Finance Commission.**

28 **(4) 'Curriculum' means a complete course of study for a particular content area or grade**
29 **level, including any supplemental materials required by the course of study.**

30 **(5) 'Parent' means a biological parent, legal guardian, custodian, or other person with**
31 **legal authority to act on behalf of a student.**

32 **(6) 'Participating school' means a private school that has notified the commission of its**
33 **intention to participate in the program and that complies with the commission's**
34 **requirements.**

35 **(7) 'Participating student' means a student for whom an account has been established**
36 **pursuant to this chapter.**

37 **(8) 'Postsecondary institution' means a school which is:**

38 **(A) A unit of the University System of Georgia;**

- 39 (B) A branch of the Technical College System of Georgia; or
40 (C) An independent or private college or university located in Georgia and eligible to
41 be deemed an 'approved school' pursuant to paragraph (2) of Code Section 20-3-411.
42 (9) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
43 accredited or in the process of becoming accredited by one or more of the entities listed
44 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
45 (10) 'Program' means the account program provided pursuant to this chapter.
46 (11) 'Qualified education expenses' means any one or more of the following:
47 (A) Tuition, fees, and required textbooks at a participating school;
48 (B) Tuition, fees, and required textbooks at a community college or accredited
49 postsecondary institution;
50 (C) Tutoring services provided by an educator certified by the Professional Standards
51 Commission;
52 (D) Payment for the purchase of a curriculum, including any supplemental materials
53 required by the curriculum;
54 (E) Tuition and fees for a nonpublic online learning program or course;
55 (F) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33, 34,
56 or 44 of Title 43, including, but not limited to, for occupational, behavioral, physical,
57 or speech-language therapies;
58 (G) No more than \$500.00 per year to a fee-for-service transportation provider for
59 transportation to or from a participating school or service provider;
60 (H) Fees for the management of account funds in accordance with subsection (e) of
61 Code Section 20-2B-7; or
62 (I) Computer hardware or other technological devices approved by the commission or
63 a physician if the computer hardware or other technological device is used to meet the
64 student's educational needs.

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

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

69 20-2B-3.

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

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

72 (2) The student:

73 (A) Is enrolled in and attending a public school in this state which has placed for two
74 consecutive school years in the lowest quartile among schools with the same grades as
75 such student's school on the College and Career Ready Performance Index (CCRPI)
76 content mastery scores as reported by the Department of Education;

77 (B) Is part of a family whose income is below 400 percent of the federal poverty level
78 and is currently enrolled in and attending a public school in this state;

79 (C) Who is placed in a foster family home, child care institution, or another substitute
80 care setting approved by the Department of Human Services and is enrolled in and
81 attending a public school in this state or has been adopted from foster care and was
82 enrolled in and attending a public school in this state immediately prior to adoption;

83 (D) Has a parent who is an active duty military service member stationed in Georgia
84 within the previous year and is currently enrolled in and attending a public school in
85 this state;

86 (E) Is currently enrolled in and attending a public school in this state and has an
87 Individualized Education Program (IEP) written in accordance with federal and state
88 laws and regulations or has a formal diagnosis from a licensed physician or
89 psychologist or a Section 504 Plan relating to one or more conditions that are included

90 among the conditions which shall be identified by the State Board of Education for the
91 purposes of this Code section and which shall, at a minimum, include the following:
92 (i) Attention deficit hyperactivity disorder (ADHD);
93 (ii) Autism spectrum disorder;
94 (iii) Bipolar disorder;
95 (iv) Cancer;
96 (v) Cerebral palsy;
97 (vi) Cystic fibrosis;
98 (vii) Deafness;
99 (viii) Down syndrome;
100 (ix) Drug or alcohol abuse;
101 (x) Dual sensory impairment;
102 (xi) Dyslexia;
103 (xii) Emotional or behavioral disorder;
104 (xiii) Epilepsy;
105 (xiv) Hearing impairment;
106 (xv) Intellectual disability;
107 (xvi) Muscular dystrophy;
108 (xvii) Specific learning disability;
109 (xviii) Spina bifida;
110 (xix) Traumatic brain injury;
111 (xx) Visual impairment; or
112 (xxi) Any rare disease identified by the National Institutes of Health's Genetic and
113 Rare Diseases Information Center's list of rare disease disorders; or
114 (F) Spent the previous school year enrolled in a public school which is part of a local
115 school system not offering an option for students to receive 100 percent of instruction
116 in person for at least one semester;

- 117 (3) The student's parent signs an agreement promising:
118 (A) To provide an education for the participating student in at least the subjects of
119 reading, grammar, mathematics, social studies, and science;
120 (B) Not to enroll the student in a local school system school, local charter school, or
121 state charter school while participating in the program; and
122 (C) To use account funds only for qualified education expenses of the participating
123 student;
- 124 (4) The student is not the recipient or beneficiary of a scholarship or other benefit
125 provided for under Article 33 of Chapter 2 of this title, nor shall the student or the
126 student's family seek to receive such scholarship or other benefit at any time while
127 participating in the program provided for in this chapter;
- 128 (5) The student's parent submits an application for an account to the commission no later
129 than the deadline established by the commission; provided, however, that the commission
130 shall provide quarterly application periods that correspond with quarterly funding dates
131 pursuant to subsection (c) of Code Section 20-2B-5; and
- 132 (6) The student and the student's parents meet applicable verification requirements
133 provided for in Code Section 50-36-1.
- 134 (b)(1) The number of participating students in the first school year of the program shall
135 be limited to an amount equivalent to one-fourth of 1 percent of the state-wide total
136 public school enrollment in the 2021-2022 school year. Each subsequent year, such limit
137 shall increase by an additional one-fourth of 1 percent of the previous year's state-wide
138 total public school enrollment up to a maximum of 2 and one-half percent.
- 139 (2) The number of participating students per local school system in the first school year
140 of the program shall be limited to one-half of 1 percent of the program total and increase
141 by one-half of 1 percent each school year until it reaches a maximum of 4 percent;
142 provided, however, that any local school system with an enrollment total that is less than
143 the state-wide total public school enrollment average may limit participating students to

144 one-fourth of 1 percent of the program total the first year with an increase of one-fourth
145 of 1 percent each year until it reaches a maximum of 2 and one-half percent.

146 (3) The annual limit increases provided for in paragraphs (1) and (2) of this subsection
147 shall not be authorized for any school year for which the General Assembly did not
148 appropriate the full amount of funding provided for in Code Section 20-2-161.

149 (4) If during an enrollment period, the commission receives more applications than are
150 permitted under this subsection, the commission shall give equal priority admittance to
151 students qualifying for an account pursuant to subparagraphs (a)(2)(A) through (a)(2)(E)
152 of this Code section and admit students who qualify for an account pursuant to
153 subparagraph (a)(2)(F) of this Code section for any remaining spots, through the use of
154 a random selection process.

155 (c) Upon acceptance of the account, the parent assumes full financial responsibility for the
156 education of the participating student, including transportation to and from the participating
157 school or service provider.

158 (d) Students enrolled in a school operated by the Department of Juvenile Justice are not
159 eligible for the program.

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

163 (f) For participating students with a disability, acceptance of an account shall have the
164 same effect as a parental refusal to consent to services pursuant to the Individuals with
165 Disabilities Education Act, 20 U.S.C. Section 1400, et seq., and a parental waiver of rights
166 to educational accommodations under Section 504 of the federal Rehabilitation Act of
167 1973, 29 U.S.C. Section 701, et seq.

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

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

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

175 (j) Any parent who fails to comply with the provisions of this chapter and commission
176 regulations relating to the program shall forfeit the account and all account funds therein.

177 20-2B-4.

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

179 (1) Demonstrate fiscal soundness by having been in operation for one school year or by
180 submitting a financial information report for the school that complies with uniform
181 financial accounting standards established by the commission and conducted by a
182 certified public accountant. The report must confirm that the school desiring to
183 participate is insured and the owner or owners have sufficient capital or credit to operate
184 the school for the upcoming school year serving the number of students anticipated with
185 expected revenues from tuition and other sources that may be reasonably expected. The
186 report shall be limited in scope to those records that are necessary for the commission to
187 make a determination on fiscal soundness of the school;

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

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

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

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

196 (b) A participating school or service provider may apply to the commission to participate
197 in the program and accept account funds for providing services covered as qualified
198 education expenses.

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

201 (d) The commission shall, not later than 60 days after receiving a participating school's or
202 service provider's application for approval, notify such school or service provider as to
203 whether its application has been approved or denied. If the commission denies an
204 application, the commission shall provide a reason and notify the school or service provider
205 that it may appeal the decision to the parent review committee created pursuant to Code
206 Section 20-2B-6.

207 (e) A participating school and service provider shall not refund, rebate, or share account
208 funds with a parent or student in any manner.

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

213 20-2B-5.

214 (a) Each school year, the account funds granted to a participating student pursuant to this
215 chapter shall be an amount equivalent to 95 percent of the state-wide average per full-time
216 equivalent (FTE) calculated by the Department of Education pursuant to subsection (b) of
217 this Code section for the category to which such participating student is assigned by the
218 commission pursuant to subsection (c) of this Code section.

219 (b) By May 1 of each year, the Department of Education shall calculate as accurately as
220 is reasonable and practicable, for the most recently completed school year, the state-wide

221 average per full-time equivalent (FTE) of the total amount of state funds allotted for
222 students in each of the following categories:

223 (1) Program for persons with disabilities: Category I, as provided for in paragraph (1) of
224 subsection (d) of Code Section 20-2-152 and paragraph (10) of subsection (b) of Code
225 Section 20-2-161;

226 (2) Program for persons with disabilities: Category II, as provided for in paragraph (2)
227 of subsection (d) of Code Section 20-2-152 and paragraph (11) of subsection (b) of Code
228 Section 20-2-161;

229 (3) Program for persons with disabilities: Category III, as provided for in paragraph (3)
230 of subsection (d) of Code Section 20-2-152 and paragraph (12) of subsection (b) of Code
231 Section 20-2-161;

232 (4) Program for persons with disabilities: Category IV, as provided for in paragraph (4)
233 of subsection (d) of Code Section 20-2-152 and paragraph (13) of subsection (b) of Code
234 Section 20-2-161;

235 (5) Program for persons with disabilities: Category V, as provided for in paragraph (5)
236 of subsection (d) of Code Section 20-2-152 and paragraph (14) of subsection (b) of Code
237 Section 20-2-161; and

238 (6) All students who are not covered under paragraphs (1) through (5) of this subsection.
239 (c)(1) Each school year, the commission shall assign each participating student to a
240 category that corresponds to one of the categories provided for in paragraphs (1)
241 through (6) of subsection (b) of this Code section.

242 (2) The commission shall promulgate rules, regulations, and administrative procedures
243 to provide for the assignment of participating students pursuant to this paragraph. Such
244 rules, regulations, and administrative procedures shall provide parents of a participating
245 students an adequate opportunity once each school year to request a different assignment
246 for their child and to submit supporting documentation for appropriate consideration by
247 the commission.

248 (3) All assignments of participating students pursuant to this subsection shall be at the
249 discretion of the commission and shall not be subject to appeal except as provided in
250 paragraph (2) of this subsection or as otherwise provided by law.

251 (d) Participating students shall be counted in the enrollment of their resident school
252 system; provided, however, that participating students shall not be included as enrolled for
253 purposes of state or federal accountability requirements, including, but not limited to, the
254 federal Elementary and Secondary Education Act, as amended by the No Child Left Behind
255 Act of 2001 (P.L. 107-110). The funds needed to fund an account shall be subtracted from
256 the allotment payable to the resident school system.

257 (e)(1) When a student enters the program, the commission must receive all
258 documentation required for the student's participation during a quarterly enrollment
259 period pursuant to paragraph (5) of subsection (a) of Code Section 20-2B-3 before the
260 first quarterly account payment is made for the student.

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

270 (3) The commission shall develop a system for parents to direct account funds to
271 participating schools and service providers by electronic funds transfer, automated
272 clearing-house transfer, or another system that the commission finds to be commercially
273 viable, cost-effective, and easy for parents of participating students to use. The
274 commission shall not adopt a system that relies solely on reimbursing parents for

275 out-of-pocket expenses, but may determine certain qualified education expenses that must
276 require reimbursement or preapproval for purchase. The commission is authorized to
277 qualify private financial management firms to manage the payment system. The
278 commission, at its discretion, shall be authorized to create a system of individually
279 funded accounts or notional accounts funded through a single state omnibus account.

280 (4) If the participating school requires partial payment of tuition prior to the start of the
281 academic year to reserve space for students admitted to the school, such partial payment
282 may be paid by the commission prior to the first quarterly payment of the year in which
283 the account is awarded, up to a maximum of \$1,000.00, and deducted from subsequent
284 account payments. If a student decides not to attend the participating school, the partial
285 reservation payment must be returned to the commission by such school. Only one
286 reservation payment per student may be made per year.

287 (f) Funds received pursuant to this Code section shall not constitute taxable income of the
288 parent of the participating student.

289 (g) Funds deposited into an account shall be used only for qualified education expenses
290 for the participating student. Unused funds in an account, up to an amount not greater
291 than 50 percent of the total funds deposited into the account for the current school year,
292 shall roll over to the following school year; provided, however, that, if an account has been
293 inactive for two consecutive years, the funds in such account shall be returned to the state
294 general fund and the account shall be closed. Upon high school graduation of the
295 participating student, any unused funds shall roll over and may be used for tuition at a
296 postsecondary institution located in this state.

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

300 20-2B-6.

301 (a) To assist in the determination of whether certain expenses meet the requirements to be
302 considered a qualified education expense under this chapter, a parent review committee
303 shall be established.

304 (b)(1) The committee shall be composed of eight parents of participating students. Four
305 of the parents shall reside in local school systems with student enrollment greater
306 than 10,000, and four of the parents shall reside in local school systems with student
307 enrollment less than 10,000.

308 (2) Members of the committee shall be appointed by and serve at the pleasure of the
309 executive director of the commission.

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

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

313 (c) The commission may request the committee to determine whether an expenditure of
314 account funds from an account qualifies as a qualified education expense under this
315 chapter.

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

318 20-2B-7.

319 (a) The commission shall adopt rules and regulations as necessary for the administration
320 of the program. The commission shall adopt rules and regulations regarding eligibility and
321 participation of participating schools and service providers, including, but not limited to,
322 timelines that will maximize student and private school participation, the calculation and
323 distribution of accounts to participating students, and the application and approval
324 procedures for participating students, participating schools, and service providers. The
325 commission shall develop and utilize a compliance form for completion by participating

326 schools and service providers. The commission shall be authorized to require any pertinent
327 information as it deems necessary from participating schools and service providers for the
328 purpose of implementing the program. Participating schools and service providers shall
329 be required to complete such forms and certify their accuracy.

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

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

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

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

340 (f) The commission may contract with a qualified nonprofit organization to administer the
341 program or specific functions of the program.

342 (g) The commission shall provide parents of participating students with an explanation of
343 the allowable uses of account funds, the responsibilities of parents, and the duties of the
344 commission.

345 20-2B-8.

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

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

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

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

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

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

361 (d) The commission or an organization chosen by the commission shall collect information
362 regarding the high school graduation of all participating students.

363 20-2B-9.

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

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

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

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

372 (3) The percentage of funds used for each type of qualified education expense included
373 in paragraph (11) of Code Section 20-2B-2; and

374 (4) The fiscal impact to the state and resident school systems of the program, taking into
375 consideration both the impact on revenue and the impact on expenses. The fiscal savings

376 associated with students departing public schools shall be explicitly quantified, even if
377 the public school losing the student or students does not reduce its spending.

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

380 (d) The report shall protect the identity of participating students through whatever means
381 the commission deems appropriate, including, but not limited to, by keeping anonymous
382 all disaggregated data and complying with state and federal guidelines for student privacy.
383 The names of participating schools and the number of participating students at each such
384 school shall be included in the report.

385 (e) The Department of Audits and Accounts shall audit the program annually. Audit
386 reports, including, but not limited to, any findings and recommendations by the Department
387 of Audits and Accounts, shall be included in the first annual report submitted by the
388 commission pursuant to this Code section following completion of each audit of the
389 program by the Department of Audits and Accounts. Nothing in this subsection shall be
390 construed to limit the authority of the Department of Audits and Accounts to conduct an
391 audit at any time."

392 **SECTION 2.**

393 Said title is amended further in Code Section 20-3-231, relating to legislative findings and
394 purposes of commission, by revising subsection (b) as follows:

395 "(b) **Purpose of commission.** The purpose of the commission shall be to help improve the
396 higher educational opportunities of citizens and persons in this state by serving as an
397 agency and budget unit within the executive branch of state government for the purpose of
398 carrying out and effectuating the powers, duties, and functions set forth in this part and in
399 Chapter 2B of this title."

400

SECTION 3.

401 This Act shall become effective only if the "Quality Basic Education Act," as provided for
402 in Article 6 of Chapter 2 of Title 20, is fully funded in an appropriations Act making specific
403 reference to the full funding of the "Quality Basic Education Act" and shall become effective
404 when funds so appointed become available for expenditure.

405

SECTION 4.

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