

## Senate Bill 233

By: Senators Dolezal of the 27th, Brass of the 28th, Still of the 48th, Moore of the 53rd, Setzler of the 37th and others

**AS PASSED SENATE**

## 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 be funded by the state in  
3 the amount of \$6,000.00 per school year for each participating student; to provide for  
4 definitions; to provide for qualified education expenses; to provide for qualifications for  
5 students to participate in the promise scholarship account program; to provide for  
6 requirements for participating schools and service providers; to provide for accounts and  
7 account funds; to establish a parent review committee to review expenditures upon request;  
8 to authorize the Georgia Student Finance Commission to participate in the promise  
9 scholarship account program; to authorize the Georgia Student Finance Commission to  
10 promulgate rules and regulations; to provide for an annual report on the program by the  
11 Georgia Student Finance Commission; to provide for annual testing of participating students;  
12 to provide for audits by the Department of Audits and Accounts; to provide for an annual  
13 report by the Office of Student Achievement; to provide for a short title; to provide for  
14 contingent effectiveness; to provide for related matters; to repeal conflicting laws; and for  
15 other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

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

20 "CHAPTER 2B

21 20-2B-1.

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

23 20-2B-2.

24 As used in this chapter, the term:

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

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

29 (3) 'Commission' means the Georgia Student Finance Commission.

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

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

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

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

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

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

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

(A) Tuition, fees, and required textbooks at a participating school, accredited community college or postsecondary education institution, or nonpublic online learning program or course;

(B) Tutoring services provided by an educator certified by the Professional Standards Commission;

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

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

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

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

(G) Other expenses authorized by the State Board of Education or the commission; or

(H) Individual education expenses authorized by a majority of the parent review committee provided for in Code Section 20-2B-6.

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

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

20-2B-3.

(a) A student shall qualify for a promise scholarship account under this chapter if:

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

(2) The student is an eligible student as defined in code section 20-2A-1 and resides in the attendance zone of a public school that is included on the list of public schools provided for in Code Section 20-2B-10;

(3) The student does not meet any of the ineligibility criteria provided for in subsection (b) of Code Section 20-3-519.1;

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

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

(B) Not to enroll the student in a local school system school, local charter school, or state charter school while participating in the program; and

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

(5) The student's parent submits an application for an account to the commission no later than the deadline established by the commission; provided, however, that the commission shall provide quarterly application periods that correspond with quarterly funding dates pursuant to subsection (b) of Code Section 20-2B-5.

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

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

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

that a student who participated in the program for any length of time before returning to a public school must submit a new application for an account in order to participate in the program for a second or subsequent time.

(e) The creation of the program or the granting of an account pursuant to this chapter shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state. A participating student's resident school system shall not be obligated to provide services to such student that would be required if such student were enrolled in such resident school system unless such student re-enrolls in such school system.

(f) Any account funds directed to a participating school or service provider are so directed on behalf of the participating student's parent, the recognized recipient of such participating student's account funds, and wholly as a result of the genuine and independent private choice of the parent.

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

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

20-2B-4.

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

(1) Demonstrate fiscal soundness by having been in operation for one school year or by submitting a financial information report for the school that complies with uniform financial accounting standards established by the commission and conducted by a certified public accountant. The report must confirm that the school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming school year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. The

report shall be limited in scope to those records that are necessary for the commission to make a determination on fiscal soundness of the school;

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

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

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

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

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

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

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

(f) The commission shall not require a participating school or service provider to alter such school's or provider's creed, practices, admissions policies, employment policies, or curricula in order to receive funds under the program.

20-2B-5.

(a) The account funds granted to a participating student pursuant to this chapter shall be \$6,000.00 per school year.

(b)(1) When a student enters the program, the commission shall receive all documentation required for the student's participation during a quarterly enrollment period provided for in paragraph (4) of subsection (a) of Code Section 20-2B-3 before the first quarterly account payment is made for the student.

(2) Upon proper documentation received by the commission, the commission shall make quarterly payments to the account of a participating student, beginning with the first quarterly payment that corresponds with the enrollment period in which the student's application was received. As nearly as practical, such quarterly payments shall be equal. The state auditor shall cite as an audit exception any failure by the commission to meet any payment deadlines and shall include such audit exceptions on the website established pursuant to Code Section 50-6-32.

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

(4) If the participating school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, such partial payment may be paid by the commission prior to the first quarterly payment of the year in which

the account is awarded, up to a maximum of \$1,000.00, and deducted from subsequent account payments. If a student decides not to attend the participating school, the partial reservation payment must be returned to the commission by such school. Only one reservation payment per student may be made per year.

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

(d) Funds deposited into an account shall be used only for qualified education expenses for the participating student. Unused funds in an account, up to an amount not greater than 50 percent of the total funds deposited into the account for the current school year, shall roll over to the following school year; provided, however, that, if an account has been inactive for two consecutive years or the participating student graduates from high school, the funds in such account shall be returned to the state general fund and the account shall be closed.

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

20-2B-6.

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

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

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



(3) Members of the committee shall serve for one-year terms and may be reappointed; provided, however, that no individual shall be permitted to serve more than three terms.

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

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

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

20-2B-7.

(a) The commission shall adopt rules and regulations as necessary for the administration of the program and shall include rules and regulations prioritizing the selection of educationally disadvantaged students if either the number of participating students or the number of applications for accounts exceeds the funds available for the program; provided, however, that continued participation in the program by participating students shall be prioritized over new applications for accounts. The commission shall adopt rules and regulations regarding eligibility and participation of participating schools and service providers, including, but not limited to, timelines that will maximize student and private school participation, the calculation and distribution of accounts to participating students, and the application and approval procedures for participating students, participating schools, and service providers. The commission shall develop and utilize a compliance form for completion by participating schools and service providers. The commission shall be authorized to require any pertinent information as it deems necessary from participating schools and service providers for the purpose of implementing the program. Participating schools and service providers shall be required to complete such forms and certify their accuracy.

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

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

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

(e) The commission may deduct an amount from accounts to cover the costs of overseeing and administering the program, up to a maximum of 5 percent annually.

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

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

20-2B-8.

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

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

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

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

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

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

20-2B-9.

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

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

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

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

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

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

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

(d) The report shall protect the identity of participating students through whatever means the commission deems appropriate, including, but not limited to, by keeping anonymous

all disaggregated data and complying with state and federal guidelines for student privacy.  
The names of participating schools and the number of participating students at each such  
school shall be included in the report.

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

20-2B-10.

(a) In the annual report required by paragraph (2) of subsection (a) of Code  
Section 20-14-27, the Office of Student Achievement shall include a separate list of public  
schools that performed in the lowest 25 percent of all public schools based on individual  
school ratings as provided for in subsection (d) of Code Section 20-14-33, provided that  
in the event of a tied rating, the public school with the lower performance in student  
achievement shall be prioritized.

(b) By December 1 of each year, the Office of Student Achievement shall publish the list  
provided for in subsection (a) of this Code section on its website."

## **SECTION 2.**

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

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

300

**SECTION 3.**

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

305

**SECTION 4.**

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