

The House Committee on Rules offers the following substitute to SB 233:

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 \$6,500.00 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 statutory construction; to provide
14 for a short title; to provide for contingent effectiveness; to provide for applicability; to
15 provide for related matters; to repeal conflicting laws; and for other purposes.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"CHAPTER 2B

20-2B-1.

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

20-2B-2.

As used in this chapter, the term:

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

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

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

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

(5) 'Educationally disadvantaged students' means all or a subset of the following: students who are economically disadvantaged, students with disabilities, limited English proficient students, neglected or delinquent students, and homeless students, as each such subset is defined by the State Board of Education in accordance with federal education guidelines and regulations.

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

- 39 (7) 'Participating school' means a private school that has notified the commission of its
40 intention to participate in the program, that complies with the commission's requirements,
41 and meets the requirements provided for in Code Section 20-2B-4.
- 42 (8) 'Participating student' means a student for whom an account has been established
43 pursuant to this chapter.
- 44 (9) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is
45 accredited or in the process of becoming accredited by one or more of the entities listed
46 in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- 47 (10) 'Program' means the account program provided pursuant to this chapter.
- 48 (11) 'Qualified education expenses' means any one or more of the following:
- 49 (A) Tuition, fees, and required textbooks for eligible core courses and eligible CTAE
50 courses, as such terms are defined in Code Section 20-2-161.3, at a participating school,
51 accredited community college or postsecondary education institution, or nonpublic
52 online learning program or course;
- 53 (B) Tutoring services provided by an educator certified by the Professional Standards
54 Commission;
- 55 (C) Payment for the purchase of a curriculum, including any supplemental materials
56 required by the curriculum;
- 57 (D) Services from a physician or therapist licensed pursuant to Chapter 10A, 28, 33,
58 34, or 44 of Title 43, including, but not limited to, for occupational, behavioral,
59 physical, or speech-language therapies;
- 60 (E) No more than \$500.00 per year to a fee-for-service transportation provider for
61 transportation to or from a participating school or service provider;
- 62 (F) Fees for the management of account funds in accordance with subsection (e) of
63 Code Section 20-2B-7;
- 64 (G) Other expenses authorized by the State Board of Education or the commission; or
65 (H) Individual education expenses authorized by a majority of the parent review
66 committee provided for in Code Section 20-2B-6.

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

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

71 20-2B-3.

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

73 (1) The student's parent resides within Georgia and has been a Georgia resident for at
 74 least one year; provided, however, that the one-year requirement shall not apply if the
 75 student's parent is an active duty military service member stationed in Georgia within the
 76 previous year;

77 (2) The student is currently enrolled and has been continuously enrolled in a Georgia
 78 public school for a period of time that includes at least two consecutive enrollment counts
 79 conducted pursuant to Code Section 20-2-160.

80 (3) The student resides in the attendance zone of a public school that is included on the
 81 list of public schools provided for in Code Section 20-2B-10;

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

84 (5) The student is not the recipient or beneficiary of a scholarship or other benefit
 85 provided for under Article 33 of Chapter 2 of this title, the 'Georgia Special Needs
 86 Scholarship Act,' nor shall the student or the student's parent seek to receive such
 87 scholarship or other benefit at any time during which such student is a participating
 88 student;

89 (6) The student is not the recipient or beneficiary of a scholarship, tuition grant, or other
 90 benefit from a student scholarship organization, as such term is defined in Code Section
 91 20-2A-1, nor shall the student or the student's parent seek to receive such scholarship,
 92 tuition grant, or other benefit at any time during which such student is a participating
 93 student;

- 94 (7) The student's parent signs an agreement promising:
- 95 (A) To provide an education for the participating student in at least the subjects of
- 96 reading, grammar, mathematics, social studies, and science;
- 97 (B) Not to enroll the student in a local school system school, local charter school, or
- 98 state charter school while participating in the program; provided, however, that this
- 99 subparagraph shall not be construed to prohibit participating students from part-time
- 100 enrollment in a college and career academy, as such term is defined in subsection (b)
- 101 of Code Section 20-4-37, which has been approved by the commission to be a service
- 102 provider; and
- 103 (C) To use account funds only for qualified education expenses of the participating
- 104 student; and
- 105 (8) The student's parent submits an application for an account to the commission no later
- 106 than the deadline established by the commission; provided, however, that the commission
- 107 shall provide quarterly application periods that correspond with quarterly funding dates
- 108 pursuant to subsection (b) of Code Section 20-2B-5.
- 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; provided, however,
- 117 that a student who participated in the program for any length of time before returning to a
- 118 public school must submit a new application for an account in order to participate in the
- 119 program for a second or subsequent time.
- 120 (e) 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. A participating
123 student's resident school system shall not be obligated to provide services to such student
124 that would be required if such student were enrolled in such resident school system unless
125 such student re-enrolls in such school system.

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

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

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

134 20-2B-4.

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

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

145 (2)(A) Beginning on August 1 of the first year following the year in which this chapter
146 becomes effective and by August 1 each year thereafter, submit to the commission and
147 the Department of Education a report of:

- 148 (i) The aggregate data of student attendance rates and course completion rates for
149 eligible core courses and eligible CTAE courses, as such terms are defined in Code
150 Section 20-2-161.3, of all participating students enrolled in such participating school;
151 (ii) The dates of enrollment for each participating student enrolled in such
152 participating school during the previous school year; and
153 (iii) The amount of account funds, if any, received on behalf of each participating
154 student during the previous school year; and
- 155 (B) Beginning on August 1 of the fourth year following the year in which this chapter
156 becomes effective and by August 1 each year thereafter, submit to the commission and
157 the Department of Education a report of the on-time graduation rate of participating
158 students enrolled in such participating school. For purposes of this subparagraph, the
159 on-time graduate rate shall be calculated using the four-year adjusted cohort graduation
160 rate criteria which are used by the Department of Education for state and federal
161 accountability purposes.
- 162 (3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
163 (4) Comply with all health and safety laws or codes that apply to private schools;
164 (5) Comply with all provisions of Code Section 20-2-690 and any other state law
165 applicable to private schools; and
166 (6) Be located in Georgia.
- 167 (b) A participating school or service provider may apply to the commission to participate
168 in the program and accept account funds for providing services covered as qualified
169 education expenses.
- 170 (c) The commission shall, not later than 60 days after receiving a participating school's or
171 service provider's application for approval, notify such school or service provider as to
172 whether its application has been approved or denied. If the commission denies an
173 application, the commission shall provide a reason and notify the school or service provider
174 that it may appeal the decision to the parent review committee created pursuant to Code
175 Section 20-2B-6.

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

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

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

185 (g) A participating school or service provider shall not be deemed an agent of the state or
186 federal government as a result of participating in the program or accepting account funds.

187 20-2B-5.

188 (a) Upon this chapter becoming effective, the account funds granted to each participating
189 student pursuant to this chapter shall be \$6,500.00 for the first school year. Each
190 subsequent school year, the amount of account funds granted to each participating student
191 shall reflect austerity adjustments, if any, and shall be adjusted by an amount equal to the
192 difference between:

193 (1) The product of multiplying the base amount provided for in Code Section 20-2-161
194 for the current school year by the percentage at which the Quality Basic Education
195 Formula is initially funded for such school year; and

196 (2) The base amount provided for in Code Section 20-2-161 for the previous school year.

197 (b)(1) When a student enters the program, the commission shall receive all
198 documentation required for the student's participation during a quarterly enrollment
199 period provided for in paragraph (8) of subsection (a) of Code Section 20-2B-3 before the
200 first quarterly account payment is made for the student.

201 (2) Upon proper documentation received by the commission, the commission shall make
202 quarterly payments to the account of a participating student, beginning with the first

203 quarterly payment that corresponds with the enrollment period in which the student's
204 application was received. As nearly as practical, such quarterly payments shall be equal.
205 The state auditor shall cite as an audit exception any failure by the commission to meet
206 any payment deadlines and shall include such audit exceptions on the website established
207 pursuant to Code Section 50-6-32.

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

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

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

227 (d) Funds deposited into an account shall be used only for qualified education expenses
228 for the participating student. Unused funds in an account, up to an amount not greater
229 than 50 percent of the total funds deposited into the account for the current school year,
230 shall roll over to the following school year; provided, however, that, if an account has been

231 inactive for two consecutive years or the participating student graduates from high school,
232 the funds in such account shall be returned to the state general fund and the account shall
233 be closed.

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

237 20-2B-6.

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

241 (b)(1) The committee shall comprise one person with relevant knowledge, skills, and
242 abilities and eight parents of participating students appointed by the president of the
243 commission. Four of the parents shall reside in local school systems with student
244 enrollment greater than 10,000, and four of the parents shall reside in local school
245 systems with student enrollment less than 10,000.

246 (2)(A) Members of the committee shall serve for staggered three-year terms and may
247 be reappointed; provided, however, that no individual shall be permitted to serve more
248 than three terms.

249 (B) The commission shall adopt rules for staggering the terms of members as required
250 in subparagraph (A) of this paragraph.

251 (3) The president of the commission or his or her designee shall serve as the chair of the
252 committee and shall only vote in the event of a tie.

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

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

258 20-2B-7.

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

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

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

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

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

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

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

290 20-2B-8.

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

294 (2) Private schools enrolling participating students shall ensure that at least one of the
295 following is administered each school year to each participating student:

296 (A) A nationally norm-referenced test approved by the commission, as provided in
297 paragraph (1) of this subsection; or

298 (B) A state-wide assessment administered pursuant to Code Section 20-2-281, if such
299 participating student is enrolled in a grade for which such state-wide assessment is
300 administered. Such state-wide assessment shall be made available to such participating
301 student by his or her resident school system.

302 (3) The commission shall develop a process for the annual administration of the
303 nationally norm-referenced tests and the state-wide assessments provided for in
304 paragraph (2) of this subsection and for the collection of results for participating students
305 not enrolled full time in a private school.

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

309 (c) Student information shall be reported and collected in a manner that allows the state
310 to aggregate data by grade level, gender, race, socioeconomic status, and English language
311 proficiency.

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

314 20-2B-9.

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

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

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

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

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

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

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

331 (d) The report shall protect the identity of participating students through whatever means
332 the commission deems appropriate, including, but not limited to, by keeping anonymous
333 all disaggregated data and complying with state and federal guidelines for student privacy.

334 The names of participating schools and the number of participating students at each such
335 school shall be included in the report.

336 (e) The Department of Audits and Accounts shall audit the program annually. Audit
337 reports, including, but not limited to, any findings and recommendations by the Department
338 of Audits and Accounts, shall be included in the first annual report submitted by the

339 commission pursuant to this Code section following completion of each audit of the
340 program by the Department of Audits and Accounts. Nothing in this subsection shall be
341 construed to limit the authority of the Department of Audits and Accounts to conduct an
342 audit at any time.

343 20-2B-10.

344 (a) In the annual report required by paragraph (2) of subsection (a) of Code
345 Section 20-14-27, the Office of Student Achievement shall include a separate list of public
346 schools that performed in the lowest 25 percent of all public schools based on the
347 cumulative individual school ratings, as provided for in subsection (d) of Code Section
348 20-14-33, for the two most recent school years for which the Office of Student
349 Achievement issued such ratings; provided, however, that in the event of a tied rating, the
350 public school with the lower performance in student achievement shall be prioritized;
351 provided, further, however, that such list shall not include any school with more than 50
352 percent of its enrolled students assigned to an education program provided for in Code
353 Section 20-2-154.1.

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

356 20-2B-11.

357 The provisions of this chapter shall not apply or be construed to apply to any student in a
358 home study program provided for in Code Section 20-2-690 unless such student is a
359 participating student as such term is defined in Code section 20-2B-2."

360

SECTION 2.

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

