

Senate Bill 587

By: Senators Miller of the 49th, Dixon of the 45th and Harbin of the 16th

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

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 587

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16

SECTION 1.

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

19

"CHAPTER 2B20 20-2B-1.21 This chapter shall be known and may be cited as the 'Georgia Educational Freedom Act.'22 20-2B-2.23 As used in this chapter, the term:

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

27 (2) 'Account funds' means the funds awarded on behalf of a participating student.28 (3) 'Commission' means the Georgia Student Finance Commission.

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

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

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

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

38 (8) 'Postsecondary institution' means a school which is:39 (A) A unit of the University System of Georgia;

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

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

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

70 20-2B-3.

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

72 (1) The student is currently enrolled in and attending a public school in this state;

73 (2) The student's parent is an active duty military service member who is currently
74 stationed in Georgia or within the previous 12 months received official military orders
75 of assignment to an installation located in Georgia;

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

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

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

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

83 (4) The student is not the recipient or beneficiary of a scholarship or other benefit
84 provided for under Article 33 of Chapter 2 of this title, nor shall the student or the
85 student's family seek to receive such scholarship or other benefit at any time while
86 participating in the program provided for in this chapter; and

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

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

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

96 (d) Subject to appropriations, a participating student shall continue to be eligible to receive
97 account funds until the student returns to a public school, graduates from high school, or
98 reaches the age of 20 years, or for special education students, reaches the age of 21 years;
99 provided, however, that a student who participated in the program for any length of time
100 before returning to a public school must submit a new application for an account in order
101 to participate in the program for a second or subsequent time.

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

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

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

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

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

116 20-2B-4.

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

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

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

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

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

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

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

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

140 (d) The commission shall, not later than 60 days after receiving a participating school's or
141 service provider's application for approval, notify such school or service provider as to
142 whether its application has been approved or denied. If the commission denies an

143 application, the commission shall provide a reason and notify the school or service provider
144 that it may appeal the decision to the parent review committee created pursuant to Code
145 Section 20-2B-6.

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

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

152 20-2B-5.

153 (a) Subject to appropriations, the account funds granted to a participating student pursuant
154 to this chapter shall be \$6,000.00 per school year.

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

159 (2) Subject to appropriations and upon proper documentation received by the
160 commission, the commission shall make quarterly payments to the account of a
161 participating student, beginning with the first quarterly payment that corresponds with the
162 enrollment period in which the student's application was received. As nearly as practical,
163 such quarterly payments shall be equal; provided, however, that this shall not prevent
164 payments from being adjusted due to budgetary midterm adjustments made pursuant to
165 Code Section 20-2-162. The state auditor shall cite as an audit exception any failure by
166 the commission to meet any payment deadlines and shall include such audit exceptions
167 on the website established pursuant to Code Section 50-6-32.

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

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

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

187 (e) Funds deposited into an account shall be used only for qualified education expenses
188 for the participating student. Unused funds in an account, up to an amount not greater
189 than 50 percent of the total funds deposited into the account for the current school year,
190 shall roll over to the following school year; provided, however, that, if an account has been
191 inactive for two consecutive years, the funds in such account shall be returned to the state
192 general fund and the account shall be closed. Upon high school graduation of the
193 participating student, any unused funds shall roll over and may be used for tuition at a
194 postsecondary institution located in this state.

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

198 20-2B-6.

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

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

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

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

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

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

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

216 20-2B-7.

217 (a) The commission shall adopt rules and regulations as necessary for the administration
218 of the program and shall include rules and regulations regarding the selection of
219 participating students by a lottery process governed by chance if either the number of
220 participating students or the number of applications for accounts exceeds the funds
221 available for the program; provided, however, that continued participation in the program
222 by participating students shall be prioritized over new applications for accounts. The
223 commission shall adopt rules and regulations regarding eligibility and participation of
224 participating schools and service providers, including, but not limited to, timelines that will
225 maximize student and private school participation, the calculation and distribution of
226 accounts to participating students, and the application and approval procedures for
227 participating students, participating schools, and service providers. The commission shall
228 develop and utilize a compliance form for completion by participating schools and service
229 providers. The commission shall be authorized to require any pertinent information as it
230 deems necessary from participating schools and service providers for the purpose of
231 implementing the program. Participating schools and service providers shall be required
232 to complete such forms and certify their accuracy.

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

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

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

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

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

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

248 20-2B-8.

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

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

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

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

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

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

266 20-2B-9.

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

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

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

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

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

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

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

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

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

288 (e) The Department of Audits and Accounts shall audit the program annually. Audit
289 reports, including, but not limited to, any findings and recommendations by the Department
290 of Audits and Accounts, shall be included in the first annual report submitted by the
291 commission pursuant to this Code section following completion of each audit of the
292 program by the Department of Audits and Accounts. Nothing in this subsection shall be

293 construed to limit the authority of the Department of Audits and Accounts to conduct an
294 audit at any time."

295 **SECTION 2.**

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

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

303 **SECTION 3.**

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