

House Bill 1434

By: Representatives Buck of the 135<sup>th</sup>, Royal of the 164<sup>th</sup>, Smith of the 175<sup>th</sup>, Skipper of the 137<sup>th</sup> and McBee of the 88<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to state  
2 income taxation, so as to provide for certain technical corrections and modifications; to  
3 provide for proper administration of certain provisions regarding state income taxation; to  
4 change certain provisions regarding definitions relating to income tax; to change certain  
5 provisions regarding computation of taxable net income; to change certain provisions  
6 regarding taxation of nonresidents' income; to change certain provisions regarding conditions  
7 for allocating certain income; to change certain provisions regarding income tax credits to  
8 business enterprises for certain motor vehicles; to change certain provisions regarding  
9 confidentiality of tax information; to amend Title 20 of the Official Code of Georgia  
10 Annotated, relating to education, so as to change certain provisions regarding the Georgia  
11 Higher Education Savings Plan; to change certain provisions regarding definitions; to change  
12 certain provisions regarding the board of directors of such plan; to change certain provisions  
13 regarding savings trust accounts; to change certain provisions regarding fund administration;  
14 to change certain provisions regarding investment of plan funds; to change certain provisions  
15 regarding annual statement and report requirements; to change certain provisions regarding  
16 confidentiality of records; to provide for related matters; to provide for an effective date and  
17 for applicability; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to state income  
21 taxation, is amended by striking paragraph (11) of Code Section 48-7-1, relating to  
22 definitions regarding income taxes, and inserting in its place a new paragraph (11) to read  
23 as follows:

24 "(11) 'Taxable nonresident' means:

25 (A) Every individual who is not otherwise a resident of this state for income tax  
26 purposes and who regularly and not casually or intermittently engages within this state,

1 by himself or herself or by means of employees, agents, or partners, in employment,  
 2 trade, business, professional, or other activity for financial gain or profit including, but  
 3 not limited to, the rental of real or personal property located within this state or for use  
 4 within this state. 'Taxable nonresident' does not include a legal resident of another state  
 5 whose only activity for financial gain or profit in this state consists of performing  
 6 services in this state for an employer when the remuneration for the services does not  
 7 exceed 5 percent of the income received by the person for performing services in all  
 8 places during any taxable year;

9 (B) Every individual who is not otherwise a resident of this state for income tax  
 10 purposes and who sells, exchanges, or otherwise disposes of tangible property which  
 11 at the time of the sale, exchange, or other disposition has a taxable situs within this state  
 12 or who sells, exchanges, or otherwise disposes of intangible personal property which  
 13 has acquired at the time of the sale, exchange, or other disposition a business or  
 14 commercial situs within this state;

15 (C) Every individual who is not otherwise a resident of this state for income tax  
 16 purposes and who receives the proceeds of any lottery prize awarded by the Georgia  
 17 Lottery Corporation; and

18 (D) Every individual who is not a resident of this state for income tax purposes and  
 19 who makes a withdrawal as provided for in subparagraph (b)(10)(B) of Code Section  
 20 48-7-27."

## 21 SECTION 2.

22 Said chapter is further amended by striking paragraph (11) of subsection (a) of Code Section  
 23 48-7-27, relating to computation of taxable net income, and inserting in its place a new  
 24 paragraph (11) to read as follows:

25 "(11)(A) For taxable years beginning on or after January 1, 2002, an amount equal to  
 26 the amount of contributions by parents or guardians of a designated beneficiary to a  
 27 savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on  
 28 behalf of a the designated beneficiary who is claimed as a dependent on the Georgia  
 29 income tax return of the beneficiary's parents or guardians, but not exceeding \$2,000.00  
 30 per beneficiary.

31 (B) If the parents or guardians file joint returns, separate returns, or single returns, the  
 32 sum of contributions constituting deductions on their returns under this paragraph shall  
 33 not exceed \$2,000.00 per beneficiary.

34 (C) In order to ~~To~~ claim the deduction, ~~the taxpayer's federal return must show~~ for a  
 35 taxable year:

1 (i) Such parent or guardian must have claimed and been allowed itemized deductions  
 2 from adjusted gross income, and the pursuant to Section 63(d) of the Internal Revenue  
 3 Code of 1986 and paragraph (1) of this subsection;

4 (ii) The federal adjusted gross income for such taxable year cannot exceed  
 5 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return; ~~the~~ except  
 6 as provided in subparagraph (D) of this paragraph; and

7 (iii) Such parent or guardian must be the account owner of the designated  
 8 beneficiary's account.

9 (D) The maximum deduction authorized by this paragraph for each beneficiary shall  
 10 decrease by \$400.00 for each \$1,000.00 of federal adjusted gross income over ~~the~~  
 11 applicable limit \$100,000.00 for a joint return or \$50,000.00 for a separate or single  
 12 return.

13 (E) For purposes of this paragraph, contributions or payments for any such taxable year  
 14 may be made during or after such calendar taxable year but on or before the deadline  
 15 for making contributions to an individual retirement account under federal law for such  
 16 taxable year pursuant to Section 219(f)(3) of the Internal Revenue Code of 1986."

### 17 SECTION 3.

18 Said chapter is further amended by striking paragraph (10) of subsection (b) of Code Section  
 19 48-7-27, relating to computation of taxable net income, and inserting in its place a new  
 20 paragraph (10) to read as follows:

21 "(10)(A) For taxable years beginning on or after January 1, 2002, the amount of any  
 22 qualified withdrawals from a savings trust account under Article 11 of Chapter 3 of  
 23 Title 20 used solely for qualified higher education expenses shall not be subject to state  
 24 income tax under this chapter.

25 (B) For ~~unqualified~~ withdrawals other than qualified withdrawals from such a savings  
 26 trust account, the proportion of earnings in the account balance at the time of the  
 27 withdrawal shall be applied to the total funds withdrawn to determine the earnings  
 28 portion to be included in the account ~~contributor's~~ owner's taxable net income in the  
 29 year of withdrawal. The proportion of the contributions in an account balance at the  
 30 time of ~~an unqualified a~~ withdrawal other than for qualified higher education expenses  
 31 which previously have been used to reduce taxable net income pursuant to paragraph  
 32 (11) of subsection (a) of this Code section shall be applied to the nonearnings portion  
 33 of the total funds withdrawn to determine an amount to be included in the account  
 34 ~~contributor's~~ owner's taxable net income in the same taxable year."



1 (b) The following records shall constitute public records that are open for inspection under  
2 the provisions of Article 4 of Chapter 18 of Title 50:

3 (1) Proposals submitted by taxpayers under this Code section or under any prior Code  
4 section that allowed taxpayers to enter into a contract or agreement with the  
5 commissioner to use a different allocation method, a different apportionment method, or  
6 both; and

7 (2) Any agreement or contract entered into as a result of such proposal.

8 (c) Taxpayers' tax information from any state or federal income tax return contained in  
9 records subject to disclosure pursuant to subsection (b) of this Code section which would  
10 otherwise be privileged or protected from disclosure by law shall be deleted or redacted  
11 from records made available for public inspection.

12 (d) In evaluating proposals pursuant to subsection (a) of this Code section, the panel shall  
13 not determine that a proposal has significant beneficial economic effect on the region for  
14 which it is planned unless two or more of the following criteria are met:

15 (1) The proposal creates new full-time jobs that meet the requirements contained in  
16 Regulations 110-9-1-.01, 110-9-1-.02, and 110-9-1-.03 of the Department of Community  
17 Affairs, relating to job tax credits, with average wages which are, as determined by the  
18 Georgia Department of Labor for all jobs for the county in question:

19 (A) Twenty percent above such average wage for projects located in tier 1 counties;

20 (B) Ten percent above such average wage for projects located in tier 2 counties; or

21 (C) Five percent above such average wage for projects located in tier 3 or tier 4  
22 counties;

23 (2) The project invests in qualified investment property, as defined in Regulation  
24 560-7-8-.37 of the department, which is valued at over \$10 million in tier 1 counties, over  
25 \$35 million in tier 2 counties, and over \$75 million in tier 3 or tier 4 counties. Past  
26 investment will not be considered;

27 (3) The proposal creates a minimum of 50 new full-time jobs that meet the requirements  
28 contained in Regulations 110-9-1-.01, 110-9-1-.02, and 110-9-1-.03 of the Department  
29 of Community Affairs, relating to job tax credits, in a tier 1 county, 150 such jobs in a tier  
30 2 county, or 300 such jobs in a tier 3 or tier 4 county; or

31 (4) The proposal demonstrates high growth potential based upon the prior year's Georgia  
32 net taxable income growth of over 20 percent from the previous year, if the company's  
33 Georgia net taxable income in each of the two preceding years also grew by 20 percent  
34 or more."

**SECTION 6.**

Said chapter is further amended by striking Code Section 48-7-40.22, relating to income tax credits to business enterprises for certain vehicles, and inserting in its place a new Code Section 48-7-40.22 to read as follows:

"48-7-40.22.

(a) As used in this Code section, the term:

(1) 'Business enterprise' means any business or the headquarters of any such business which is engaged in manufacturing, warehousing and distribution, processing, telecommunications, tourism, research and development industries, child care businesses, or retail businesses.

(2) 'Headquarters' means the principal central ~~administration~~ administrative office of a taxpayer.

(3) 'Tier' means a tier as designated pursuant to Code Section 48-7-40, as amended.

(b) A business enterprise which is located in a tier 1 or tier 2 county which purchases or leases a new motor vehicle as defined in paragraph (34) of Code Section 40-1-1 in this state which is used for the exclusive purpose of providing transportation for its employees shall be allowed a credit for taxes imposed under this article as follows:

<u>Tier</u>	<u>Credit amount per vehicle</u>
1 .....	\$ 3,000.00
2 .....	2,000.00

(c) In order to qualify for the tax credit under this Code section, a business enterprise must certify that each vehicle for which a credit is claimed carries an average daily ridership of not less than four employees for an entire taxable year.

(d) In no event shall the aggregate amount of the tax credit provided by this Code section exceed the income tax liability of the business enterprise. Any unused tax credit shall be allowed to be carried forward to apply to the succeeding years' tax liability of such business enterprise. No such credit shall be allowed the business enterprise against prior years' tax liability.

(e) No business enterprise shall be authorized to claim on a tax return the credit provided for in this Code section with respect to a vehicle if such business enterprise claims any of the credits authorized under subsection (b) of Code Section 48-7-40.16 with respect to such vehicle.

(f)(1) If a business enterprise sells a new motor vehicle within three years of receiving the credit, the business enterprise shall recapture the credit as follows:

(A) If the motor vehicle is sold within one year of receiving the credit, the recapture amount will equal the lesser of the credit or the net profit from the sale;

1 (B) If the motor vehicle is sold within two years of receiving the credit, the recapture  
 2 amount will equal the lesser of two-thirds of the credit or the net profit from the sale;  
 3 and

4 (C) If the motor vehicle is sold within three years of receiving the credit, the recapture  
 5 amount will equal the lesser of one-third of the credit or the net profit from the sale.

6 (2) The recapture provisions of this subsection shall not apply to:

7 (A) Any sale by reason of death;

8 (B) Any sale between spouses or incident to divorce;

9 (C) Any transaction to which Section 381(a) of the Internal Revenue Code of 1986  
 10 applies;

11 (D) Any change in the form of conducting the taxpayer's trade or business so long as  
 12 the property is retained in such trade or business and the taxpayer retains a substantial  
 13 interest in such trade or business; or

14 (E) Any accident or casualty.

15 ~~(e)~~(g) The commissioner shall promulgate any rules and regulations necessary to  
 16 implement and administer the Code section."

#### 17 **SECTION 7.**

18 Said chapter is further amended by striking subsection (d) of Code Section 48-7-60, relating  
 19 to confidentiality of tax information, and inserting in its place a new subsection (d) to read  
 20 as follows:

21 "(d) This Code section shall not be construed to prohibit persons or groups of persons other  
 22 than employees of the department from having access to tax information where necessary  
 23 to conduct research commissioned by the department and where necessary for data  
 24 processing operations and maintenance of data processing equipment, provided the persons  
 25 or groups of persons have obtained prior written approval from the commissioner and are  
 26 subject to the direct security control of department personnel during all periods of access.  
 27 Any person who divulges or makes known any tax information obtained under this  
 28 subsection shall be subject to the same civil and criminal penalties as those provided for  
 29 divulgence of information by employees of the department."

#### 30 **SECTION 8.**

31 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 32 striking Code Section 20-3-632, relating to definitions, and inserting in its place a new Code  
 33 Section 20-3-632 to read as follows:

34 "20-3-632.

35 As used in this article, the term:

1 (1) 'Account contributor' means a resident or nonresident person, corporation, trust,  
 2 charitable organization, or other entity which contributes to or invests money in a savings  
 3 trust account under the program on behalf of a beneficiary. For resident or nonresident  
 4 persons, the account contributor may also be the designated beneficiary of the account.

5 (2) 'Account owner' means a resident or nonresident person, corporation, trust, charitable  
 6 organization, or other entity that establishes a savings trust account under the program on  
 7 behalf of a beneficiary. For resident or nonresident persons, the account owner may also  
 8 be the designated beneficiary of the account.

9 ~~(2)~~(3) 'Beneficiary' means a resident or nonresident beneficiary of a savings trust  
 10 agreement who meets the requirements of Section 529 of the Internal Revenue Code of  
 11 1986 or other applicable federal law and any regulations established by the board.

12 ~~(3)~~(4) 'Board' means the Board of Directors of the Georgia Higher Education Savings  
 13 Plan.

14 ~~(4)~~(5) 'Director' means the director of the Office of Treasury and Fiscal Services.

15 ~~(5)~~(6) 'Financial organization' means an organization which is:

16 (A) A fiduciary authorized to act as a trustee pursuant to the provisions of the federal  
 17 Employee Retirement Income Security Act of 1974, as amended, or an insurance  
 18 company or affiliate; and

19 (B)(i) Licensed or chartered by the Insurance Department;

20 (ii) Licensed or chartered by the Department of Banking and Finance;

21 (iii) Chartered by an agency of the federal government;

22 (iv) Subject to the jurisdiction and regulation of the federal Securities and Exchange  
 23 Commission;

24 (v) ~~Is any~~ Any other entity otherwise authorized to act in this state as a trustee  
 25 pursuant to the provisions of the federal Employee Retirement Income Security Act  
 26 of 1974, as amended; or

27 (vi) Any investment adviser registered with the United States Securities and  
 28 Exchange Commission pursuant to the Investment Advisers Act of 1940.

29 ~~(6)~~(7) 'Institution of higher education' means an eligible educational institution as  
 30 defined in Section 529 of the Internal Revenue Code of 1986 or other applicable federal  
 31 law.

32 ~~(7)~~(8) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' has the meaning  
 33 provided by Code Section 48-1-2.

34 ~~(8)~~(9) 'Plan' means the Georgia Higher Education Savings Plan established under this  
 35 article.

36 ~~(9)~~(10) 'Program' means the program of savings trust agreements and savings trust  
 37 accounts provided by the plan.

1 ~~(10)~~(11) 'Qualified higher education expense' means any higher education expense as  
 2 defined in Section 529 of the Internal Revenue Code of 1986 or other applicable federal  
 3 law.

4 ~~(11)~~(12) 'Qualified withdrawal' means a withdrawal by an account ~~contributor or~~  
 5 ~~beneficiary~~ owner for qualified higher education expenses of the beneficiary or as  
 6 otherwise permitted under Section 529 of the Internal Revenue Code of 1986 without a  
 7 penalty ~~required under the Internal Revenue Code~~ or the imposition of taxes on the  
 8 withdrawal.

9 ~~(12)~~(13) 'Savings trust account' means an account established by an account ~~contributor~~  
 10 ~~owner~~ pursuant to this article on behalf of a beneficiary in order to apply distributions  
 11 from the account toward qualified higher education expenses at eligible educational  
 12 institutions as defined in Section 529 of the Internal Revenue Code of 1986 or other  
 13 applicable federal law.

14 ~~(13)~~(14) 'Savings trust agreement' means the agreement entered into between the board  
 15 and the account ~~contributor~~ owner establishing a savings trust account.

16 ~~(14)~~(15) 'Trust fund' means the Georgia Higher Education Savings Plan Trust Fund.

17 (16) 'Unqualified withdrawal' means a withdrawal by an account owner that is not:

18 (A) A qualified withdrawal;

19 (B) A withdrawal by reason of the death or disability of the beneficiary;

20 (C) A withdrawal made in connection with the receipt by the beneficiary of a  
 21 scholarship; or

22 (D) A distribution to another qualified state tuition program."

## 23 SECTION 9.

24 Said title is further amended by striking paragraphs (8) and (10) of subsection (b) of Code  
 25 Section 20-3-633, relating to the board of directors of the Georgia Higher Education Savings  
 26 Plan, and inserting in their place new paragraphs (8) and (10) to read as follows:

27 "(8) Require and collect fees and charges to cover the reasonable costs of administering  
 28 savings trust accounts and impose ~~a 10 percent penalty on the earnings portion included~~  
 29 ~~within a~~ penalties on an unqualified withdrawal of funds ~~for nonqualified higher~~  
 30 ~~educational expenses~~ or for entering into a savings trust agreement on a fraudulent  
 31 basis;".

32 "(10) Require that account ~~contributors~~ owners of savings trust agreements verify in  
 33 writing, before a person authorized to administer oaths, any requests for contract  
 34 conversions, substitutions, transfers, cancellations, refund requests, or contract changes  
 35 of any nature;".



1 penalty or tax surcharge under the Internal Revenue Code of 1986. Contributions and  
 2 earnings shall not be eligible for qualified withdrawal until ~~three years~~ one year from the  
 3 date of establishment of the account;

4 (4) The name, address, and date of birth of the beneficiary on whose behalf the savings  
 5 trust account is opened;

6 (5) Terms and conditions for a substitution of the beneficiary originally named;

7 (6) Terms and conditions for termination of the account, including any refunds,  
 8 withdrawals, or transfers, applicable penalties, and the name of the person or persons  
 9 entitled to terminate the account;

10 (7) All other rights and obligations of the account owner or account contributor and the  
 11 trust fund; and

12 (8) Any other terms and conditions that the board deems necessary or appropriate,  
 13 including without limitation those necessary to conform the savings trust account with  
 14 the requirements of Section 529 of the Internal Revenue Code of 1986 or other applicable  
 15 federal law."

#### 16 **SECTION 11.**

17 Said title is further amended by striking Code Section 20-3-635, relating to fund  
 18 administration, and inserting in its place a new Code Section 20-3-635 to read as follows:

19 "20-3-635.

20 (a)(1) There is created the Georgia Higher Education Savings Plan Trust Fund as a  
 21 separate fund in the state treasury. The trust fund shall be administered by the director.  
 22 The director shall credit to the trust fund all amounts transferred to such fund. The trust  
 23 fund shall consist of money remitted in accordance with savings trust agreements and any  
 24 moneys acquired from other governmental or private sources and shall receive and hold  
 25 all payments, contributions, and deposits intended for it as well as gifts, bequests, or  
 26 endowments; grants; any other public or private source of funds; and all earnings on the  
 27 fund until disbursed as provided under this Code section. The amounts on deposit in the  
 28 trust fund shall not constitute property of the state. Amounts on deposit in the trust fund  
 29 shall not be commingled with state funds, and the state shall have no claim to or interest  
 30 in such funds other than the amount of reasonable fees and charges assessed to cover  
 31 administration costs. Savings trust agreements or any other contract entered into by or  
 32 on behalf of the trust fund shall not constitute a debt or obligation of the state, and no  
 33 account owner or account contributor shall be entitled to any amounts except for those  
 34 amounts on deposit in or accrued to the account of such contributor.

35 (2) The trust fund shall continue in existence so long as it holds any funds belonging to  
 36 an account ~~contributor~~ owner or otherwise has any obligations to any person or entity and

1 until its existence is terminated by law and remaining assets on deposit in the trust fund  
2 are returned to account ~~contributors~~ owners or transferred to the state in accordance with  
3 unclaimed property laws.

4 (b)(1) The following three separate accounts are created within the trust fund:

- 5 (A) The administrative account;
- 6 (B) The endowment account; and
- 7 (C) The program account.

8 (2) The administrative account shall accept, deposit, and disburse funds for the purpose  
9 of administering and marketing the program. The endowment account shall ~~receive and~~  
10 ~~deposit amounts~~ accept, deposit, and disburse amounts received in connection with the  
11 sales of interests in the trust fund or other contributions, other than amounts for the  
12 administrative account and other than amounts received pursuant to a savings trust  
13 agreement. Amounts on deposit in the endowment account may be applied as specified  
14 by the board for any purpose related to the program. The program account shall receive,  
15 invest, and disburse amounts pursuant to savings trust agreements.

16 (c) The official location of the trust fund shall be the Office of Treasury and Fiscal  
17 Services, and the facilities of the Office of Treasury and Fiscal Services shall be used and  
18 employed in the administration of the fund, including without limitation the keeping of  
19 records, the management of bank accounts and other investments, the transfer of funds, and  
20 the safekeeping of securities evidencing investments. These functions may be administered  
21 pursuant to a management agreement with a qualified entity or entities.

22 (d) Payments received by the board on behalf of beneficiaries from account contributors,  
23 other payors, or from any other source, public or private, shall be placed in the trust fund,  
24 and the board shall cause there to be maintained separate records and accounts for  
25 individual beneficiaries as may be required under Section 529 of the Internal Revenue  
26 Code of 1986 or other applicable federal law.

27 (e) Account contributors shall be permitted only to contribute cash or any other form of  
28 payment or contribution as is permitted under Section 529 of the Internal Revenue Code  
29 of 1986 and approved by the board. The board shall cause the program to maintain  
30 adequate safeguards against contributions in excess of what may be required for qualified  
31 higher education expenses. The trust fund, through the director, may receive and deposit  
32 into the trust fund any gift of any nature, real or personal property, made by an individual  
33 by testamentary disposition, including without limitation any specific gift or bequest made  
34 by will, trust, or other disposition to the extent permitted under Section 529 of the Internal  
35 Revenue Code of 1986. The trust fund may receive amounts transferred under Article 5  
36 of Chapter 5 of Title 44, 'The Georgia Transfers to Minors Act'; under the Uniform  
37 Transfers to Minors Act, Uniform Gift to Minors Act, or other substantially similar act of

1 another state, subject to the provisions of subsection (c) of Code Section 44-5-112; or from  
 2 some other account established for the benefit of a minor if the trust beneficiary of such an  
 3 account is identified as the legal owner of the trust fund account upon attaining majority  
 4 age.

5 (f) Earnings derived from investment of the contributions shall be considered to be held  
 6 in trust in the same manner as contributions, except as applied for purposes of the  
 7 designated beneficiary and for purposes of maintaining and administering the program as  
 8 provided in this article. Amounts on deposit in an account ~~contributor's~~ owner's account  
 9 shall be available for administrative fees and expenses and penalties imposed by the board  
 10 for the plan as disclosed in the savings trust agreement.

11 (g) The assets of the trust fund shall be preserved, invested, and expended solely pursuant  
 12 to and for the purposes of this article and shall not be loaned or otherwise transferred or  
 13 used by the state for any other purpose."

#### 14 SECTION 12.

15 Said title is further amended in Code Section 20-3-637, relating to investment of plan funds,  
 16 by striking subsection (g) and inserting in its place a new subsection (g) and by adding a new  
 17 subsection at the end thereof, to be designated subsection (i), to read as follows:

18 "(g) No account owner, account contributor, or beneficiary shall directly or indirectly  
 19 direct the investment of any account except as may be permitted under Section 529 of the  
 20 Internal Revenue Code of 1986 or other applicable federal law."

21 "(i) No account owner or designated beneficiary shall pledge any interest in the program  
 22 or any portion thereof as security for a loan."

#### 23 SECTION 13.

24 Said title is further amended by striking Code Section 20-3-638, relating to annual statements  
 25 and report requirements, and inserting in its place a new Code Section 20-3-638 to read as  
 26 follows:

27 "20-3-638.

28 (a) The board shall furnish, subject to reasonable administrative fees and charges, to each  
 29 account ~~contributor~~ owner an annual statement of the following:

- 30 (1) The amount contributed ~~by the account contributor~~ under the savings trust agreement;
- 31 (2) The annual earnings and accumulated earnings on the savings trust account; and
- 32 (3) Any other terms and conditions that the board deems by rule are necessary or  
 33 appropriate, including without limitation those necessary to conform the savings trust  
 34 account with the requirements of Section 529 of the Internal Revenue Code of 1986 or  
 35 other applicable federal law.

1 (b) The board shall furnish an additional statement complying with subsection (a) of this  
 2 Code section to an account ~~contributor~~ owner or beneficiary on written request. The board  
 3 may charge a reasonable fee for each statement furnished under this subsection.

4 (c) The board shall prepare or cause to be prepared an annual report setting forth in  
 5 appropriate detail an accounting of the funds and a description of the financial condition  
 6 of the plan at the close of each fiscal year. Such report shall be submitted to the Governor,  
 7 the President of the Senate, and the Speaker of the House of Representatives. In addition,  
 8 the board shall make the report available to account owners or account contributors of  
 9 savings trust agreements. The accounts of the trust fund shall be subject to annual audits  
 10 by the state auditor or his or her designee."

11 **SECTION 14.**

12 Said title is further amended by striking paragraph (4) of subsection (c) of Code Section  
 13 20-3-642, relating to confidentiality of records, and inserting in its place a new paragraph (4)  
 14 to read as follows:

15 "(4) Given to any person or entity in connection with a savings trust account to which  
 16 such person or entity is ~~an~~ the account ~~contributor~~ owner or given to any person in  
 17 connection with a savings trust account of which such person is a the beneficiary; or".

18 **SECTION 15.**

19 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become  
 20 effective upon its approval by the Governor or upon its becoming law without such approval.

21 (b) Sections 1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, and 14 of this Act shall become effective upon  
 22 its approval by the Governor or upon its becoming law without such approval and shall be  
 23 applicable to all taxable years beginning on or after January 1, 2002.

24 **SECTION 16.**

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