

House Bill 1014 (AS PASSED HOUSE AND SENATE)

By: Representatives Royal of the 171<sup>st</sup>, Keen of the 179<sup>th</sup>, Coleman of the 97<sup>th</sup>, Hembree of the 67<sup>th</sup>, and Forster of the 3<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 20 and 48 of the Official Code of Georgia Annotated, relating, respectively,  
2 to education and revenue and taxation, so as to revise and change certain provisions  
3 regarding the Georgia Higher Education Savings Plan; to change certain definitions; to  
4 change certain provisions regarding the purposes and creation of such plan; to change the  
5 authority of the board of directors of such plan; to change certain provisions regarding  
6 savings trust accounts; to change certain provisions regarding state income tax adjustments  
7 for contributions to or withdrawals from certain college savings programs; to change certain  
8 provisions regarding taxation of nonresidents' entire net income; to provide an effective date;  
9 to provide for applicability; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
13 revising paragraph (1) of Code Section 20-3-631, relating to purpose regarding the Georgia  
14 Higher Education Savings Plan, as follows:

15 "(1) Provide a program or programs of savings trust agreements to apply distributions  
16 toward qualified higher education expenses at eligible educational institutions, as defined  
17 in Section 529 of the Internal Revenue Code or other applicable federal law;"

18 **SECTION 2.**

19 Said title is further amended by revising paragraph (10) of Code Section 20-3-632, relating  
20 to definitions regarding the Georgia Higher Education Savings Plan, as follows:

21 "(10) 'Program' means ~~the~~ a program of savings trust agreements and savings trust  
22 accounts provided by the plan under Section 529 of the Internal Revenue Code or other  
23 applicable federal law."



1 educational expenses of a designated beneficiary. The state shall not guarantee that such  
 2 contributions, together with the investment return on such contributions, if any, will be  
 3 adequate to pay for qualified education expenses in full. Savings trust agreements shall be  
 4 available to both residents of the State of Georgia and nonresidents of the State of Georgia.  
 5 One or more savings trust accounts may be established for any qualified beneficiary,  
 6 subject to the limitations of this article."

#### 7 SECTION 6.

8 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 9 amended by revising subparagraph (D) of paragraph (11) of Code Section 48-7-1, relating  
 10 to definitions regarding state income tax, as follows:

11 "(D) Every individual who is not a resident of this state for income tax purposes and  
 12 who makes a withdrawal as provided for in ~~subparagraph (b)(10)(B)~~ paragraph (10) of  
 13 subsection (b) of Code Section 48-7-27."

#### 14 SECTION 7.

15 Said title is further amended in Code Section 48-7-27, relating to computation of taxable net  
 16 income, by revising paragraphs (11) and (11.1) of subsection (a) as follows:

17 "~~(11)(A)~~ For taxable years beginning on or after January 1, 2002, and prior to January  
 18 1, 2007, ~~an:~~

19 (A) An amount equal to the amount of contributions by parents or guardians of a  
 20 designated beneficiary to a savings trust account established pursuant to Article 11 of  
 21 Chapter 3 of Title 20 on behalf of the designated beneficiary who is claimed as a  
 22 dependent on the Georgia income tax return of the beneficiary's parents or guardians,  
 23 but not exceeding \$2,000.00 per beneficiary-;

24 (B) If the parents or guardians file joint returns, separate returns, or single returns, the  
 25 sum of contributions constituting deductions on their returns under this paragraph shall  
 26 not exceed \$2,000.00 per beneficiary-;

27 (C) In order to claim the deduction for a taxable year:

28 (i) Such parent or guardian must have claimed and been allowed itemized deductions  
 29 pursuant to Section 63(d) of the Internal Revenue Code of 1986 and paragraph (1) of  
 30 this subsection;

31 (ii) The federal adjusted gross income for such taxable year cannot exceed  
 32 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return except as  
 33 provided in subparagraph (D) of this paragraph; and

34 (iii) Such parent or guardian must be the account owner of the designated  
 35 beneficiary's account-;

1 (D) The maximum deduction authorized by this paragraph for each beneficiary shall  
 2 decrease by \$400.00 for each \$1,000.00 of federal adjusted gross income over  
 3 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return; and

4 (E) For purposes of this paragraph, contributions or payments for any such taxable year  
 5 may be made during or after such taxable year but on or before the deadline for making  
 6 contributions to an individual retirement account pursuant to Section 219(f)(3) of the  
 7 Internal Revenue Code of 1986;

8 (11.1)(A) For taxable years beginning on or after January 1, 2007, ~~an~~:

9 (A) An amount equal to the amount of contributions to a savings trust account  
 10 established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated  
 11 beneficiary, but not exceeding \$2,000.00 per beneficiary;

12 (B) If the contributor files a ~~joint return~~, separate return; or single return, the sum of  
 13 contributions constituting deductions on the contributor's ~~returns~~ return under this  
 14 paragraph shall not exceed \$2,000.00 per ~~return~~ beneficiary;

15 (C) If the contributor files a joint return, the sum of contributions constituting  
 16 deductions on the contributor's return under this paragraph shall not exceed \$2,000.00  
 17 per beneficiary; and

18 (D) For purposes of this paragraph, contributions or payments for any such taxable  
 19 year may be made during or after such taxable year but on or before the deadline for  
 20 making contributions to an individual retirement account under federal law for such  
 21 taxable year;"

## 22 SECTION 8.

23 Said title is further amended in Code Section 48-7-27, relating to computation of taxable net  
 24 income, by revising paragraph (10) of subsection (b) as follows:

25 ~~"(10)(A) For taxable years beginning on or after January 1, 2002, the~~

26 (10)(A) Except as otherwise provided in subparagraph (C) of this paragraph, the  
 27 amount of any qualified withdrawals from a savings trust account under Article 11 of  
 28 Chapter 3 of Title 20 used solely for qualified higher education expenses shall not be  
 29 subject to state income tax under this chapter;

30 (B) For withdrawals other than qualified withdrawals from such a savings trust  
 31 account, the proportion of earnings in the account balance at the time of the withdrawal  
 32 shall be applied to the total funds withdrawn to determine the earnings portion to be  
 33 included in the account owner's taxable net income in the year of withdrawal; and

34 (C) For withdrawals other than qualified withdrawals from such a savings trust account  
 35 and for withdrawals from such a savings trust account which are rolled over to a  
 36 qualified tuition program other than the qualified tuition program established under

1 Article 11 of Chapter 3 of Title 20, the The proportion of the contributions in an  
 2 account balance at the time of a withdrawal ~~other than for qualified higher education~~  
 3 ~~expenses~~ which previously have been used to reduce taxable net income pursuant to  
 4 ~~paragraph (11) of subsection (a) of this Code section~~ shall be applied to the nonearnings  
 5 portion of the total funds withdrawn to determine an amount to be included in the  
 6 account owner's taxable net income in the same taxable year."

#### 7 **SECTION 9.**

8 Said title is further amended in Code Section 48-7-30, relating to taxation of nonresidents'  
 9 entire net income, by revising subsection (a) as follows:

10 "(a) The tax imposed by this chapter shall apply to the entire net income of a taxable  
 11 nonresident derived from employment, trade, business, professional, or other activity for  
 12 financial gain or profit performed or carried on within this state including, but not limited  
 13 to, the rental of real or personal property located within this state or for use within this  
 14 state, the sale, exchange, or other disposition of tangible or intangible property having a  
 15 situs in this state, the receipt of proceeds of any lottery prize awarded by the Georgia  
 16 Lottery Corporation, and withdrawals of contributions to a savings trust account under  
 17 Article 11 of Chapter 3 of Title 20 ~~other than for qualified higher education expenses~~ which  
 18 are required to be included in taxable net income as provided in subparagraph (b)(10)(C)  
 19 ~~previously have been used to reduce taxable net income pursuant to paragraph (11) of~~  
 20 ~~subsection (a) of Code Section 48-7-27."~~

#### 21 **SECTION 10.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 23 without such approval and Sections 8 and 9 of this Act shall be applicable to all taxable years  
 24 beginning on or after January 1, 2008.

#### 25 **SECTION 11.**

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