

House Bill 243

By: Representatives Hamilton of the 24th, Dudgeon of the 25th, Powell of the 171st, Glanton of the 75th, Setzler of the 35th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to establish an education savings account
3 program; to provide for a short title; to provide for definitions; to provide for qualifications
4 and requirements; to provide for management of accounts; to provide for participating
5 schools; to provide for responsibilities of parents; to provide for duties of the Office of
6 Student Achievement in administering the program; to provide for rules and regulations; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
11 secondary education, is amended by adding a new article to read as follows:

12 "ARTICLE 35

13 20-2-2140.

14 This article shall be known and may be cited as the 'Education Savings Account Act.'

15 20-2-2141.

16 As used in this article, the term:

17 (1) 'Education savings account' means a consumer driven savings account established
18 pursuant to this article composed of state funds accrued on behalf of an eligible student
19 and which may be used for qualifying educational expenses, including future
20 postsecondary education expenses.

21 (2) 'Eligible postsecondary institution' means a community college, an accredited
22 university, or an accredited private postsecondary institution.

23 (3) 'Eligible student' means a student who is a Georgia resident and who was enrolled in
 24 and attended a Georgia secondary or primary public school during the preceding semester
 25 or who is eligible to enroll in first grade or kindergarten.

26 (4) 'Office' means the Office of Student Achievement.

27 (5) 'Parent' means a parent, legal guardian, custodian, or other person with legal authority
 28 to act on behalf of a child.

29 (6) 'Participating school' means a private school in this state that has notified the office
 30 of its intention to participate in the program and that complies with the office's
 31 requirements established pursuant to this article.

32 (7) 'Participating student' means an eligible student who has elected to participate in the
 33 education savings account program established pursuant to this article.

34 (8) 'Private tutoring' means tutoring services provided by tutors accredited or certified
 35 by a regionally or nationally recognized accrediting organization.

36 (9) 'Program' means the education savings account program established pursuant to this
 37 article.

38 (10) 'Qualifying educational expenses' means:

39 (A) Tuition and fees at a participating school;

40 (B) Textbooks required by a participating school;

41 (C) Payment for private tutoring;

42 (D) Payment for purchase of curriculum materials;

43 (E) Tuition or fees for a nonpublic online learning program;

44 (F) Fees for national norm-referenced examinations, advanced placement or similar
 45 examinations, and any examinations related to college or university admission;

46 (G) Contribution to the eligible student's qualified tuition program established pursuant
 47 to 11 U.S.C. Section 529;

48 (H) Educational services for participating students with disabilities from a licensed or
 49 accredited practitioner or provider;

50 (I) Tuition and fees at an eligible postsecondary institution; and

51 (J) Textbooks required for postsecondary courses.

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

54 20-2-2142.

55 (a) Any eligible student shall qualify for the education savings account program
 56 established pursuant to this article if the parent of such eligible student signs an agreement:

57 (1) To provide an education for the eligible student in at least the subjects of English and
 58 language arts, mathematics, social studies, and science;

59 (2) Not to enroll the eligible student in a public school; and
60 (3) To use the funds deposited into the education savings account only for qualifying
61 educational expenses for the eligible student.

62 (b) For each participating student, the office shall deposit into an education savings
63 account an amount equivalent to the costs of the educational program that would have been
64 provided for such student as calculated under Code Section 20-2-161 if he or she were
65 enrolled in and attending school in the resident school system. The amount deposited shall
66 not include any federal funds.

67 (c) A participating student shall be counted in the enrollment of his or her resident school
68 system; provided, however, that this count shall only be for the purpose of determining the
69 amount of the grant, and such participating student shall not be counted as enrolled for
70 purposes of state or federal accountability requirements, including, but not limited to, the
71 federal Elementary and Secondary Education Act, as amended by the No Child Left Behind
72 Act of 2001 (P.L. 107-110). The funds needed to provide a grant shall be subtracted from
73 the allotment payable to the participating student's resident school system.

74 (d) Funds deposited into an education savings account shall be used only for qualifying
75 educational expenses for the participating student.

76 (e) Participating schools, private tutoring, eligible postsecondary institutions, or other
77 educational providers receiving funds from an education savings account shall not refund,
78 rebate, or share a participating student's grant with a parent or student in any manner.

79 (f) The number of participating students in the program annually shall be limited to
80 one-half of 1 percent of the state-wide total public school enrollment for the 2015-2016
81 school year and 1 percent of the state-wide total public school enrollment for the
82 2016-2017 school year and thereafter.

83 20-2-2143.

84 (a) The office shall qualify private financial management firms to manage education
85 savings accounts and shall establish reasonable fees for such firms' services based upon
86 market rates.

87 (b) The office shall have the authority to conduct or retain an independent certified public
88 accountant or other contractor to conduct an audit of any education savings account at any
89 time and shall, at a minimum, conduct random audits of education savings accounts on an
90 annual basis.

91 (c) The office may deduct and retain an amount not to exceed 3 percent from education
92 savings accounts for administrative costs of administering the program.

93 (d) The office shall provide parents of participating students with a written explanation of
94 the qualifying educational expenses which are considered allowable uses of education

95 savings accounts funds, the responsibilities of parents with respect to the program, and the
 96 duties of the office.

97 (e) The office shall make payments to eligible students' education savings accounts on a
 98 quarterly basis.

99 (f) The office shall have the authority to refer cases of suspected misuse of education
 100 savings account funds by parents to law enforcement agencies for investigation. The office
 101 shall have the authority to bar any parent who is determined to have substantially misused
 102 education savings account funds.

103 20-2-2144.

104 (a) All participating schools shall:

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

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

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

109 (4) Demonstrate fiscal soundness by having been in operation for one school year or by
 110 submitting a financial information report for the school that complies with uniform
 111 financial accounting standards established by the Department of Education and conducted
 112 by a certified public accountant. The report must confirm that the school desiring to
 113 participate is insured and that the owner or owners have sufficient capital or credit to
 114 operate the school for the upcoming school year serving the number of students
 115 anticipated with the revenues from tuition and other sources that may be reasonably
 116 expected. The report shall be limited in scope to those records that are necessary for the
 117 Department of Education to make a determination on fiscal soundness; and

118 (5) Conduct criminal background checks on teachers in the same manner as required for
 119 public school personnel pursuant to Code Section 20-2-211.1 and exclude from
 120 employment any individuals who would not be permitted to be employed by a local
 121 school system pursuant to the results of such background checks.

122 (b) The creation of this program shall not be construed to expand the authority of this state,
 123 its officers, or any public school system to impose any additional regulations on nonpublic
 124 schools beyond those reasonably necessary to enforce the requirements of this article.

125 20-2-2145.

126 (a) The parent of a participating student shall:

127 (1) Ensure that such student participates in all math and English/language arts nationally
 128 norm-referenced assessments administered by the participating school. Participating

129 students with disabilities for whom standardized testing is not appropriate are exempt
130 from this requirement;

131 (2) Provide the results of the assessments to the office on an annual basis; and

132 (3) Inform the office of the participating student's graduation from high school.

133 (b) Upon participation in the program, the parent assumes full financial responsibility for
134 the education of the participating student, including transportation to and from a
135 participating school.

136 (c) The creation of this program or the deposit of grants pursuant to this article shall not
137 be construed to imply that a public school did not provide a free and appropriate public
138 education for an eligible student or constitute a waiver or admission by this state of the
139 same.

140 (d) Any funds from an education savings account directed to a participating school is so
141 directed wholly as a result of the genuine and independent choice of the parent.

142 (e) The parent of each participating student shall comply fully with the participating
143 school's rules and policies.

144 (f) The office shall have the authority to bar any parent who fails to comply with the
145 provisions of this article and regulations established by the office and to forfeit the eligible
146 student's participation in the program.

147 20-2-2146.

148 (a) The office shall ensure that eligible students and their parents are informed annually
149 of the participating schools in the program. The office shall take any additional measures
150 necessary to ensure that low-income families are made aware of the program and their
151 options.

152 (b) The office shall create a standard form that parents of eligible students can submit to
153 establish such student's eligibility for the program. The office shall ensure that the
154 application is readily available to interested families through various sources, including the
155 Internet.

156 (c) The office shall collect the test scores of participating students and provide the
157 aggregate test results and associated learning gains beginning three years after
158 establishment of the program. Such findings shall be aggregated by the students' grade
159 level, gender, family income level, number of years of participation in the program, and
160 race. The office shall ensure compliance with all student privacy laws.

161 (d) The office shall make graduation rates for participating students available to the public
162 via a state website beginning three years after establishment of the program.

163 (e) The office shall administer an annual parental satisfaction survey that queries parents
164 of participating students regarding:

- 165 (1) Their satisfaction with the program;
 166 (2) Their opinions on other topics, items, or issues that would elicit information about
 167 the effectiveness of the program; and
 168 (3) The number of years the eligible student has participated in the program.

169 20-2-2147.

170 (a) The office may bar a participating school from the program if the office determines that
 171 the participating school has:

- 172 (1) Intentionally and substantially misrepresented information;
 173 (2) Failed to refund to the state any overpayments in a timely manner; or
 174 (3) Failed to provide the participating student with the educational services funded by
 175 such student's education savings account.

176 (b) If the office bars a participating school from the program, it shall notify eligible and
 177 participating students and their parents of such action as soon as is practicably possible.

178 20-2-2148.

179 The office shall adopt rules and regulations as necessary to implement the provisions of
 180 this article.

181 20-2-2149.

182 The resident school system shall provide a participating school that has admitted an eligible
 183 student under the program with a complete copy of such student's school records, in
 184 accordance with any requirements and limitations provided for under the Family
 185 Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g."

186 **SECTION 2.**

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