

Senate Bill 68

By: Senators Hill of the 6th, Stone of the 23rd, Albers of the 56th, Payne of the 54th,
Watson of the 1st 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 individual student education
3 account program; to provide for a short title; to provide for definitions; to provide for
4 qualifications and requirements; to provide for management of accounts; to provide for
5 participating schools; to provide for responsibilities of parents; to provide for duties of the
6 Department of Revenue in administering the program; to provide for rules and regulations;
7 to 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 'Individual Student Education Account
15 Act.'

16 20-2-2141.

17 As used in this article, the term:

18 (1) 'Department' means the Department of Revenue.

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

21 (3) 'Eligible student' means any child who is a Georgia resident and who is eligible for
22 enrollment in a Georgia elementary or secondary public school pursuant to Code Section
23 20-2-150.

24 (4) 'Individual student education account' or 'account' means a consumer driven savings
 25 account established pursuant to this article composed of state funds accrued on behalf of
 26 an eligible student and which may be used for qualifying educational expenses, including
 27 future postsecondary education expenses.

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

30 (6) 'Participating school' means a private school in this state that is accredited or in the
 31 process of becoming accredited by one or more entities listed in subparagraph (A) of
 32 paragraph (6) of Code Section 20-3-519 that has notified the department of its intention
 33 to participate in the program and that complies with the department's requirements
 34 established pursuant to this article.

35 (7) 'Participating student' means an eligible student who has elected to participate in the
 36 program established pursuant to this article.

37 (8) 'Private tutoring' means tutoring services provided by tutors accredited or certified
 38 by a regionally or nationally recognized accrediting organization or by teachers certified
 39 in this state pursuant to Code Section 20-2-200.

40 (9) 'Program' means the individual student education account program established
 41 pursuant to this article.

42 (10) 'Qualifying educational expenses' means:

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

44 (B) Textbooks required by a participating school;

45 (C) Payment for private tutoring;

46 (D) Payment for purchase of curriculum materials;

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

48 (F) Contracted educational services by a public school or local school system,
 49 including courses; provided, however, that this shall not be construed to equate to
 50 enrollment in a public school for purposes of eligibility for the program;

51 (G) Fees for nationally norm-referenced assessment instruments, advanced placement
 52 or similar examinations, and any examinations related to college or university
 53 admission;

54 (H) Educational services for participating students with disabilities from a licensed or
 55 accredited practitioner or provider. Such educational services may include, but are not
 56 limited to:

57 (i) Applied behavior analysis services;

58 (ii) Speech-language pathology services;

59 (iii) Occupational therapy services; and

60 (iv) Physical therapy services;

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

62 (J) Textbooks required for postsecondary courses.

63 (11) 'Resident school system' means the local school system in which the eligible student
 64 would be enrolled based on his or her residence.

65 20-2-2142.

66 (a) Any eligible student shall qualify for the program established pursuant to this article
 67 if the parent of such eligible student signs an agreement:

68 (1) To provide an education for the eligible student in at least the subjects of English and
 69 language arts, mathematics, social studies, and science and not through enrollment in a
 70 public school;

71 (2) To acknowledge that funds shall cease being deposited into an account if the eligible
 72 student returns to a public school; provided, however, that this shall not apply to
 73 contracted educational services pursuant to subparagraph (F) of paragraph (10) of Code
 74 Section 20-2-2141; and

75 (3) To use the funds deposited into the account only for qualifying educational expenses
 76 for the eligible student.

77 (b) For each participating student, the department shall deposit into an account an amount
 78 equivalent to the costs of the educational program that would have been provided for such
 79 student as calculated under Code Section 20-2-161 if he or she were enrolled in and
 80 attending school in the resident school system less the state-wide average local five mill
 81 share per student and less any administrative costs withheld pursuant to subsection (c) of
 82 Code Section 20-2-2143. The amount deposited shall not include any federal funds.

83 (c) A participating student shall be counted in the enrollment of his or her resident school
 84 system; provided, however, that this count shall only be for the purpose of determining the
 85 amount of the grant, and such participating student shall not be counted as enrolled for
 86 purposes of state or federal accountability requirements, including, but not limited to, the
 87 federal Elementary and Secondary Education Act, as amended by the No Child Left Behind
 88 Act of 2001 (P.L. 107-110). The funds needed to provide a grant shall be subtracted by the
 89 Department of Education from the allotment payable to the participating student's resident
 90 school system and transferred to the department from the Department of Education for
 91 purposes of funding the individual student education accounts.

92 (d) Funds deposited into an account shall be used only for qualifying educational expenses
 93 for the participating student. Annually, 50 percent of the prior year's deposit in an account
 94 shall roll over to the following year. If an account has been inactive for two consecutive
 95 years or funds remain in the account when the participating student turns 25 years old, the
 96 funds in such account shall be returned to the state and the account shall be closed. Upon

97 high school graduation of the participating student, an amount not to exceed 50 percent of
98 the total of the prior year's deposits shall roll over and may be used for postsecondary
99 education.

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

103 (f) The number of participating students in the program annually shall be limited to
104 one-half of 1 percent based on a random selection process of the state-wide total public
105 school enrollment for the 2017-2018 school year and an additional 1 percent based on a
106 random selection process of the state-wide total public school enrollment for the 2018-2019
107 school year. For the 2019-2020 school year and thereafter, there shall be no limit.

108 (g) An eligible student shall not be eligible to participate concurrently in the program
109 established pursuant to this article and the scholarship program established pursuant to
110 Article 33 of this chapter, the 'Georgia Special Needs Scholarship Act.'

111 (h) Deposits made into an individual student education account shall not be considered
112 taxable income.

113 (i) A participating student shall be eligible to receive deposits into an individual student
114 education account pursuant to this Code section until the student returns to a public school,
115 the parent closes the account, or the student graduates from high school.

116 20-2-2143.

117 (a) The department shall qualify private financial management firms to manage individual
118 student education accounts and shall establish reasonable fees for such firms' services
119 based upon market rates.

120 (b) The department shall have the authority to conduct or retain an independent certified
121 public accountant or other contractor to conduct an audit of any individual student
122 education account at any time and shall, at a minimum, conduct random audits of
123 individual student education accounts on an annual basis.

124 (c) The department may withhold up to 3 percent of the amount calculated pursuant to
125 subsection (b) of Code Section 20-2-2142 for use in administering the program established
126 pursuant to this article; provided, however, that any amount withheld pursuant to this
127 subsection shall be spent solely on expenses incurred by the department in performing the
128 duties required by this article.

129 (d) The department shall provide parents of participating students with a written
130 explanation of the qualifying educational expenses which are considered allowable uses
131 of account funds, the responsibilities of parents with respect to the program, and the duties
132 of the department.

- 133 (e) The department shall make payments to eligible students' accounts on a quarterly basis.
134 (f) The department shall have the authority to refer cases of suspected misuse of account
135 funds by parents to law enforcement agencies for investigation.

136 20-2-2144.

137 (a) All participating schools shall:

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

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

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

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

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

155 (6) Annually administer to all participating students a nationally norm-referenced
156 assessment or a state required, nationally norm-referenced assessment that measures
157 learning gains and provides for value added assessments in grades and subjects that are
158 administered to students in public schools in this state. The participating school shall
159 annually provide to the department the results of any assessments administered to
160 participating students pursuant to this paragraph.

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

164 20-2-2145.

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

166 (1) For home study students, provide to the department on an annual basis the results of
167 any assessments administered pursuant to paragraph (7) of subsection (c) of Code Section
168 20-2-690; and

169 (2) Inform the department of the participating student's graduation from high school.

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

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

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

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

181 (f) The department shall have the authority to bar any parent who is determined to have
182 intentionally and substantially misused account funds and to forfeit the eligible student's
183 participation in the program.

184 20-2-2146.

185 (a) The department shall ensure that eligible students and their parents are informed
186 annually of the participating schools in the program. The department shall take any
187 additional measures necessary to ensure that low-income families are made aware of the
188 program and their options.

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

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

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

200 (e) The department shall administer an annual parental satisfaction survey that queries
201 parents of participating students regarding:

202 (1) Their satisfaction with the program;
 203 (2) Their opinions on other topics, items, or issues that would elicit information about
 204 the effectiveness of the program; and
 205 (3) The number of years the eligible student has participated in the program.
 206 (f) The department shall prepare and make available to the public an annual financial
 207 report on the total amount of funds used from individual student education accounts for
 208 each category of qualifying educational expenses listed in paragraph (10) of Code Section
 209 20-2-2141.

210 20-2-2147.

211 (a) The department may bar a participating school from the program if the department
 212 determines that the participating school has:

213 (1) Intentionally and substantially misrepresented information;
 214 (2) Failed to refund to the state any overpayments in a timely manner; or
 215 (3) Failed to provide the participating student with the educational services funded by
 216 such student's individual student education account.

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

219 20-2-2148.

220 The department shall adopt rules and regulations as necessary to implement the provisions
 221 of this article.

222 20-2-2149.

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

227 **SECTION 2.**

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